



Registration and Regulation Committee

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1 AMENDMENT TO HOUSE BILL 474

2 AMENDMENT NO. _____. Amend House Bill 474 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Residential 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 Residential Building Contractor
15 Licensing Board.

16 "Department" means the Department of Financial and

1 Professional Regulation.

2 "Residential building contractor" means any person who
3 undertakes to, offers to undertake to, purports to have the
4 capacity to undertake to, submits a bid to, or does himself or
5 herself or by or through others construct, alter, repair, add
6 to, subtract from, improve, move, wreck, or demolish any single
7 family dwelling built, being built, or to be built, for the
8 support, shelter, and enclosure of persons, animals, chattels,
9 or movable property of any kind.

10 "Secretary" means the Secretary of Financial and
11 Professional Regulation.

12 "Specialty residential contractor" means any residential
13 building contractor whose operations involve the performance
14 of construction work that requires special skill and whose
15 principal residential building contracting business involves
16 the use of specialized residential building trades or crafts,
17 as determined by the Department.

18 Section 10. Licensure requirement.

19 (a) Beginning 12 months after the adoption of the final
20 administrative rules under this Act, no person may practice,
21 offer to practice, attempt to practice, or hold himself or
22 herself out to practice as a residential building contractor or
23 as a specialty residential contractor without being licensed or
24 exempt under this Act.

25 (b) Beginning 12 months after the adoption of the final

1 administrative rules under this Act, no person may advertise as
2 a residential building contractor or a specialty residential
3 contractor without being licensed or exempt under this Act.

4 Section 15. Residential Building Contractor Licensing
5 Board.

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

22 (b) The persons appointed shall hold office for 4 years and
23 until a successor is appointed and has qualified. Of the
24 members of the Board first appointed, 2 shall be appointed to
25 serve for 2 years, 2 shall be appointed to serve for 3 years,

1 and 3 shall be appointed to serve for 4 years. No member may
2 serve more than 2 complete 4-year terms.

3 (c) Members of the Board shall be immune from suit in any
4 action based upon any disciplinary proceedings or other acts
5 performed in good faith as members of the Board, unless the
6 conduct that gave rise to the suit was willful or wanton
7 misconduct.

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

15 (e) The members of the Board shall receive reimbursement
16 for actual, necessary, and authorized expenses incurred in
17 attending the meetings of the Board.

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

21 (1) Prescribe forms of application for licensure.

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

25 (3) Develop specialty residential contracting classes

1 of licensure.

2 (4) Conduct hearings on proceedings to revoke,
3 suspend, or otherwise discipline or to refuse to issue or
4 renew licenses.

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

7 Section 25. Exemptions.

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

11 (b) The following persons are exempt from licensure under
12 this Act:

13 (1) A person who is solely constructing, altering,
14 improving, or repairing personal property that is not
15 commercial property.

16 (2) A person who is constructing, altering, improving,
17 or repairing a structure located within the boundaries of
18 any site or reservation under the jurisdiction of the
19 federal government.

20 (3) A person who furnishes materials, supplies,
21 equipment, or finished products and does not fabricate them
22 into or consume them in the performance of the work of a
23 residential building contractor or specialty residential
24 contractor.

25 (4) A person working on one structure or project, under

1 one or more contracts, when the aggregate price of all of
2 that person's contracts for labor, materials, and all other
3 items is less than \$500 and such work is of a casual,
4 minor, or inconsequential nature.

5 (5) A person or entity operating or performing work
6 within the building construction field under the
7 supervision of a licensee under this Act as set forth in
8 Section 35 of this Act.

9 (c) This Section does not apply to a person who advertises
10 or puts out any sign or card or other device that might
11 indicate to the public that the person is a residential
12 building contractor or specialty residential contractor.

13 Section 30. Application; qualifications.

14 (a) 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 applicant.

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

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

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

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

8 (6) Disclosure of all settlements and judgments
9 against the applicant.

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

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

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

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

19 (2) A maximum of 2 years, upon the submission of proof
20 of any of the following:

21 (A) A 4-year degree from an accredited college or
22 university in a field related to the building
23 contracting trades.

24 (B) Substantial college or university work in
25 architecture, construction management, construction
26 technology, engineering, or a field related to the

1 construction industry.

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

9 (c) The applicant must provide notice to the Board, in
10 writing, of any changes in the information required to be
11 provided on the application.

12 Section 35. Nontransferable license; individual licensure.

13 (a) Any license issued under this Act shall be
14 nontransferable.

15 (b) No company, organization, or other entity may be
16 permitted to operate within the building construction field
17 unless that company, organization, or other entity is under the
18 direct supervision of a person who is licensed under this Act
19 and provided that the work conducted is within the scope of the
20 licensee's license and that the supervised entity is not
21 engaged in construction work that would require licensure in
22 any field or category in which the supervising licensee is not
23 licensed.

24 (c) An individual who is not licensed under this Act may
25 perform work within the building construction field under the

1 supervision of a person who is licensed under this Act,
2 provided that the work performed is within the scope of the
3 licensee's license and that the supervised individual is not
4 engaged in construction work that would require licensure in
5 any field or category in which the supervising licensee is not
6 licensed.

7 Section 40. Social security number on license application.
8 In addition to any other information required to be contained
9 in the application, every application for an original, renewal,
10 or restored license under this Act shall include the
11 applicant's social security number.

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

1 Section 50. Joint venture license.

2 (a) Upon the meeting of qualifications and the submission
3 of a fee determined by the Board, a joint venture license may
4 be issued to any combination of individuals, each of which
5 holds a current, active, residential building contractor or
6 specialty residential contractor license in good standing. A
7 joint venture license may be issued in any classification in
8 which at least one of the individuals is licensed. An active
9 joint venture license shall be automatically suspended by
10 operation of law during any period in which any member of the
11 joint venture does not hold a current, active license in good
12 standing issued under this Act.

13 (b) Two or more licensees, each of whom has been issued a
14 license to act separately in the capacity of a residential
15 building contractor or specialty residential contractor under
16 this Act, may not be awarded a contract jointly or otherwise
17 act as a residential building contractor or specialty
18 residential contractor without first having secured a joint
19 venture license in accordance with the provisions of this Act.
20 Prior to obtaining a joint venture license, however,
21 contractors licensed in accordance with this Act may jointly
22 bid for the performance of work covered by this Act. If a
23 combination of licensees submit a bid for the performance of
24 work for which a joint venture license is required, a failure
25 to obtain that license shall not prevent the imposition of any

1 penalty specified by law for the failure of a residential
2 building contractor or a specialty residential contractor who
3 submits a bid to enter into a contract pursuant to the bid.

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

19 Section 60. Licenses; renewal; restoration; person in
20 military service.

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

23 (b) Failure to renew a license before its date of
24 expiration shall cause the license to be non-renewed, and it

1 shall be unlawful thereafter for the holder of the expired
2 license to engage or offer to engage in a residential building
3 contracting or specialty residential contracting business
4 under the license unless and until the license is restored.

5 (c) Any person who has permitted a license to expire or who
6 has a license on inactive status may have it restored by
7 submitting an application to the Board and filing proof of
8 fitness, as defined by rule, to have the license restored and
9 by paying the required fee.

10 (d) Any person whose license expired while on active duty
11 with the armed forces of the United States, while called into
12 service or training with the State Militia, or while in
13 training or education under the supervision of the United
14 States government prior to induction into military service may
15 have his or her license restored without paying any renewal
16 fees if, within 2 years after the termination of such service,
17 training, or education, except under conditions other than
18 honorable, the Department is furnished with satisfactory
19 evidence that the person has been so engaged and that such
20 service, training, or education has been so terminated.

21 Section 65. Inactive status. A person who notifies the
22 Board in writing, on forms prescribed by the Board, may elect
23 to place his or her license on inactive status and shall,
24 subject to rule of the Board, be excused from payment of
25 renewal fees until he or she notifies the Board, in writing, of

1 his or her desire to resume active status. A person requesting
2 restoration from inactive status shall be required to pay the
3 current renewal fee and shall be required to restore his or her
4 license, pursuant to this Act. Practice by an individual whose
5 license is on inactive status shall be considered to be
6 unlicensed practice as a residential building contractor or
7 specialty residential contractor and shall be grounds for
8 discipline under this Act.

9 Section 70. Licensure by endorsement. The Board may grant
10 a license to an applicant holding a license or certificate in
11 good standing in another state whose requirements for licensure
12 or certification are equal to or greater than those required by
13 this Act if the Board has authorized an exam waiver agreement
14 with that state. An applicant may be exempt from the technical
15 examination required for licensure if the applicant can verify
16 the successful completion of an examination in another state
17 that is essentially the same as the examination required by the
18 Board, regardless of the absence of a reciprocal agreement with
19 that state. An applicant for licensure under this Section may
20 be required to pass an examination on Illinois construction
21 codes and laws and must comply with all other licensing
22 requirements of this Act.

23 Section 75. Display and inclusion of license information.

24 (a) Any licensee under this Act who displays his or her

1 company name or contact information on his or her motor vehicle
2 must also display on each side of that motor vehicle his or her
3 contractor license number in letters and numerals not less than
4 one and one-half inches high.

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

10 (c) Every licensee under this Act must include his or her
11 contractor license number on all contracting business-related
12 correspondence, including without limitation solicitations,
13 literature, and contracts.

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 residential building contractor or specialty
18 residential contractor:

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

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

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

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

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

23 Use only licensed residential building contractors and
24 specialty residential contractors. If you file a complaint
25 against a licensed residential building contractor or
26 specialty residential contractor within the legal

1 deadline, the Board has the authority to investigate the
2 complaint. If you use an unlicensed residential building
3 contractor or specialty residential contractor, the Board
4 may not be able to help you resolve your complaint. Your
5 only remedy may be in civil court, and you may be liable
6 for damages arising out of any injuries to the unlicensed
7 residential building contractor or specialty residential
8 contractor or the unlicensed residential building
9 contractor's or specialty residential contractor's
10 employees.".

11 Section 85. Public records; Board notification.

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

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

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

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

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

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

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

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

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

22 Section 90. Building permit; reporting violations.

23 (a) A building official or other authority charged with
24 issuing building or other similar permits of a county,

1 municipality, or subdivision of a county or municipality shall
2 refuse to issue a permit for an undertaking that would result
3 in the applicant acting as a residential building contractor or
4 a specialty residential contractor under this Act unless the
5 applicant has furnished evidence that the applicant is either
6 licensed as required by this Act or exempt from the
7 requirements of this Act. A building official or other
8 authority charged with issuing building or other similar
9 permits shall report to the Board the name and address of any
10 individual or entity believed to have violated this Act by
11 bidding or contracting for work that is regulated under this
12 Act.

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

22 (c) Building construction contracting work covered by this
23 Act must be performed by properly licensed residential building
24 contractors or licensed specialty residential contractors. All
25 persons directly employed by the owner to perform work on a
26 project are subject to all applicable State and federal laws

1 concerning occupational safety, family and medical leave,
2 workers' compensation, social security, income tax
3 withholding, and minimum wage requirements. Work performed
4 must comply with all applicable laws, ordinances, building
5 codes, and zoning regulations.

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

11 Section 100. Returned checks; fines. Any person who
12 delivers a check or other payment to the Department pursuant to
13 this Act that is returned to the Department unpaid by the
14 financial institution upon which it is drawn shall pay to the
15 Department, in addition to the amount already owed to the
16 Department, a fine of \$50. The fines imposed by this Section
17 are in addition to any other discipline provided for under this
18 Act for unlicensed practice or practice on a nonrenewed
19 license. The Department shall notify the person that payment of
20 fees and fines shall be paid to the Department by certified
21 check or money order within 30 calendar days after the
22 notification. If, after the expiration of 30 days from the date
23 of the notification, the person has failed to submit the
24 necessary remittance, the Department shall automatically

1 terminate the license or deny the application, without hearing.
2 If, after termination or denial, the person seeks a license, he
3 or she shall apply to the Department for restoration or
4 issuance of the license and pay all of the application fees as
5 set by rule. The Department may establish a fee for the
6 processing of an application for restoration of a license to
7 pay all expenses of processing this application. The Secretary
8 may waive the fines due under this Section in individual cases
9 where the Secretary finds that the fines would be unreasonable
10 or unnecessarily burdensome.

11 Section 105. Deposit of fees. All fees and fines collected
12 under this Act shall be deposited into the General Professions
13 Dedicated Fund and shall be appropriated to the Department for
14 the purpose of administering and enforcing this Act.

15 Section 110. Grounds for disciplinary action.

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

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

24 (2) Conviction of any crime under the laws of any U.S.

1 jurisdiction that is a felony, a misdemeanor an essential
2 element of which is dishonesty, or a crime that directly
3 relates to the practice of the profession.

4 (3) Making any misrepresentation for the purpose of
5 obtaining a license.

6 (4) Professional incompetence or gross negligence in
7 the practice of building contracting.

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

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

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

17 (8) Engaging in dishonorable, unethical, or
18 unprofessional conduct of a character likely to deceive,
19 defraud, or harm the public.

20 (9) Habitual or excessive use of or addiction to
21 alcohol, narcotics, stimulants, or any other chemical
22 agent or drug that results in the inability to practice
23 with reasonable judgment, skill, or safety.

24 (10) Discipline by another U.S. jurisdiction or
25 foreign nation if at least one of the grounds for the
26 discipline is the same or substantially equivalent to those

1 set forth in this Section.

2 (11) Directly or indirectly giving to or receiving from
3 any person, firm, corporation, partnership, or association
4 any fee, commission, rebate, or other form of compensation
5 for any professional services not actually or personally
6 rendered.

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

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

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

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

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

24 (17) Failure to file a tax return or to pay any final
25 assessment of tax, penalty, or interest, as required by any
26 tax Act administered by the Department of Revenue, until

1 such time as the requirements of any such tax Act are
2 satisfied.

3 (18) Failure to continue to meet the requirements of
4 this Act.

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

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

12 (21) Advertising in any manner that is false,
13 misleading, or deceptive.

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

25 (b) The Department shall deny any license or renewal under
26 this Act to any person who has defaulted on an educational loan

1 guaranteed by the Illinois Student Assistance Commission;
2 however, the Department may issue a license or renewal if the
3 person in default has established a satisfactory repayment
4 record as determined by the Illinois Student Assistance
5 Commission.

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

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

1 Section 125. Unlicensed practice; civil penalty.

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

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

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

19 Section 130. Enforcement; petition to court.

20 (a) If any person violates the provisions of this Act, the
21 Secretary, through the Attorney General of Illinois or the
22 State's Attorney of any county in which a violation is alleged
23 to exist, may, in the name of the People of the State of
24 Illinois, petition for an order enjoining such violation or for
25 an order enforcing compliance with this Act. Upon the filing of

1 a verified petition in such court, the court may issue a
2 temporary restraining order, without notice or bond, and may
3 preliminarily and permanently enjoin such violation, and if it
4 is established that such person has violated or is violating
5 the injunction, the Court may punish the offender for contempt
6 of court.

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

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

26 (d) Proceedings under this Section shall be in addition to

1 and not in lieu of all other remedies and penalties that may be
2 provided by law.

3 Section 135. Investigation; notice; default. The
4 Department may investigate the actions of any applicant or any
5 person or persons holding or claiming to hold a license. The
6 Department shall, before suspending, revoking, placing on
7 probationary status, or taking any other disciplinary action
8 that the Department may deem proper with regard to any license,
9 at least 30 days prior to the date set for the hearing, notify
10 the accused, in writing, of any charges made and the time and
11 place for a hearing on the charges before the hearing officer,
12 direct the accused to file a written answer with the hearing
13 officer, under oath, within 30 days after the service to the
14 accused, and inform the accused that the accused's license may
15 be suspended, revoked, or placed on probationary status or
16 other disciplinary action may be taken, including limiting the
17 scope, nature, or extent of the accused person's practice, as
18 the Department may deem proper. This written notice may be
19 served by personal delivery or certified or registered mail to
20 the accused. In case the person fails to file an answer after
21 receiving notice, that person's license may, in the discretion
22 of the Department, be suspended, revoked, or placed on
23 probationary status or the Department may take whatever
24 disciplinary action deemed proper, including limiting the
25 scope, nature, or extent of the person's practice or the

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

17 Section 140. Stenographer; record of proceedings. The
18 Department, at its expense, shall provide a stenographer to
19 take down the testimony and preserve a record of all
20 proceedings initiated pursuant to this Act, the rules for the
21 administration of this Act or any other Act or rules relating
22 to this Act, and proceedings for restoration of any license
23 issued under this Act. The notice of hearing, complaint, and
24 answer, all other documents in the nature of pleadings and
25 written motions and responses filed in the proceedings, the

1 transcript of the testimony, all exhibits admitted into
2 evidence, the report of the hearing officer, the Board's
3 findings of fact, conclusions of law, and recommendations to
4 the Secretary, and the order shall be the record of the
5 proceedings. The Department shall furnish a transcript of the
6 record to any person interested in the hearing upon payment of
7 the fee required under Section 2105-115 of the Department of
8 Professional Regulation Law (20 ILCS 2105/2105-115).

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

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

1 The Secretary and any member of the Board have the power to
2 administer oaths to witnesses at any hearing that the
3 Department or Board is authorized by law to conduct. The
4 Secretary has the power to administer any other oaths required
5 or authorized to be administered by the Department under this
6 Act.

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

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

1 conclusions of law, and recommendations to the Secretary by the
2 date of the Board's second meeting following the Board's
3 receipt of the hearing officer's report.

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

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

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

1 Section 165. Temporary suspension. The Secretary may
2 temporarily suspend the license of a contractor without a
3 hearing, simultaneously with the institution of proceedings
4 for a hearing provided for in this Act, if the Secretary finds
5 that evidence in his or her possession indicates that
6 continuation in practice would constitute an imminent danger to
7 the public. In the event that the Secretary temporarily
8 suspends a license without a hearing, a hearing by the
9 Department shall be held within 30 days after such suspension
10 has occurred.

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

22 Section 175. Review under Administrative Review Law. All
23 final administrative decisions of the Department are subject to

1 judicial review pursuant to the Administrative Review Law and
2 its rules. The term "administrative decision" is defined as in
3 Section 3-101 of the Code of Civil Procedure.

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

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

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

22 Section 998. The Regulatory Sunset Act is amended by adding

1 Section 4.28 as follows:

2 (5 ILCS 80/4.28 new)

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

4 Act is repealed on January 1, 2018:

5 The Residential Building Contractor Licensing Act.

6 Section 999. Effective date. This Act takes effect upon

7 becoming law.".