

Excerpts from a Power Point Presentation
at the Spring Meeting, May 4, 2007 of the Virginia Assoc. of Local Tax Auditors
Department of Professional and Occupational Regulation
Presented by:
Kevin Hoeft, Board for Contractors

Today's objectives:

- Learn when a license is needed, from a statutory standpoint
- Differentiate between a contractor license and individual license/certification
- Become familiar with the exemptions from licensure
- Learn the difference between the three classes of licensure
- Learn the difference between class and specialty
- Become familiar with consumer protection tidbits

The Board was created in 1938

The Board for Contractors:

A highly talented group of individuals, appointed by the Governor to serve four year terms.
Responsible for the administration of the statutes and regulations that encompass the licensing and disciplining of contractors and tradesman in the Commonwealth of Virginia.

Board Members:

- Mark Kinser (Chairman) – Radford
- Dorothy Wood – Virginia Beach
- Deborah Tomlin – Powhatan
- Jack Miller – Manassas
- Troy Smith, Jr. – Hampton
- Kenneth Hart – Loudoun
- Mark Cronin – Manassas
- Robert Kirby - Portsmouth
- Wyatt Walton – Bedford
- Anthony Orange (Vice Chairman) – Richmond
- Ann Rackas Pate – Alexandria
- Jeffrey Modisett – Richmond
- Michael Redifer - Lovingson

Board Staff

- Eric Olson, Executive Director
- Kevin Hoeft, Board Administrator
- Sheila Watkins, Administrative Assistant
- Karen Kenney, Administrative Assistant

LICENSING STAFF:

- Meagan Ohlsson
- Veronica Morris
- Omica Jones
- Ana Larrabaster
- Laura Ray
- Justin Garofalo

- Regina Hill
- Emily Trent

First, some licensing statistics (just because we keep track)

Total regulant population – 106,152 (70,562 contractors & 35,590 individual lic/cert)

FY Year to Date Stats (through 3/31)

Applications to date FY 2007 – 8,187

Telephone Calls to date 2007 – 82,824

Application Packet Requests – 4,928

Web E-mails – 2,760

Now Some Board Stats (since 2003)

- Cases Heard - 3229 (662 in FY 2007)
- Breakdown: 2113 Disciplinary; 636 Licensing; 480 Recovery Fund
- Revocations: 683
- Remedial Education: 1184
- License Denials: 113
- Fines: \$4,664,520
- Recovery Fund Payouts: \$3,579,206

So, just who needs a license??

- meet the definition of contractor?
- is the work more than \$1000 (no minimum for trade related work, landscaping irrigation, or water well contracting)
- does the individual meet any of the exemption criteria?

Definition of Contractor:

Contractor:

any person, that for a fixed price, commission, fee, or percentage undertakes to bid upon, or accepts, or offers to accept, orders or contracts for performing, managing, or superintending in whole or in part, the construction, removal, repair or improvement of any building or structure permanently annexed to real property owned, controlled, or leased by him or another person or any other improvements to such real property.

section 54.1-1100 of the Code of Virginia

More than \$1000??

- \$1000 minimum is for the entire job or project.
- Trade work (PLB, ELE, etc.) landscape irrigation work, and water well work have no minimum exemption.

Contractor Exemptions...

- Any government agency performing work with its own forces;
- Work bid upon or undertaken for the armed services of the United States under the Armed Services Procurement Act;
- Work bid upon or undertaken for the United States government on land under the exclusive jurisdiction of the federal government either by statute or deed of cession;

- Work bid upon or undertaken for the Department of Transportation on the construction, reconstruction, repair or improvement of any highway or bridge;
- Any other persons who may be specifically excluded by other laws but only to such an extent as such laws provide;
- Any material supplier who renders advice concerning use of products sold and who does not provide construction or installation services;
- Any person who performs or supervises the construction, removal, repair or improvement of no more than one primary residence owned by him and for his own use during any 24 month period;
- Any person who performs or supervises the construction, removal, repair or improvement of a house upon his own real property as a bona fide gift to a member of his immediate family provided such member lives in the house for at least twenty-four (24) months;
- Any person who performs or supervises the repair or improvement of industrial or manufacturing facilities, or a commercial or retail building for his own use;
- Any person who performs or supervises the repair or improvement of residential dwelling units owned by him that are subject to the Virginia Residential Landlord Tenant Act (§ 54.248.2 et seq.)
- Any owner-developer provided that any third party purchaser is made a third party beneficiary to the contract between the OD and the licensed contractor

The Board said...

In October 2000, the Board stated that the person building or supervising the building of a residential construction project must live in it (or intend to) and the person building or supervising the building of a commercial construction project must operate their business in that building, or they must hold the appropriate license.

Class, Classification, Specialty, Certification, etc., etc., etc.

- Three license classes
- Five Classifications
- A bunch of contractor specialties
- Not as many tradesman specialties
- Two certifications (and one in the oven!)

License Classes (or just how much does it cost to put a roof on)

- Three classes (A,B,C)
- Sets parameters for dollar amount of contract
- Each class has unique eligibility requirements
- Class A & B have testing requirements

Class Limitations

- Class C – single project less than \$7500 with an aggregate annual total of \$150,000.
- Class B – single project less than \$120,000 with an aggregate annual total of \$750,000
- Class A – no limitation on contract size
- Tradesman – must have a tradesman license if charging any amount of money (but \$250 for non-tradesman)

Classifications

- Set forth in the statutes (54.1-1106, 1108, 1108.2)
- Includes: Building, Highway/Heavy, Plumbing, Electrical, & HVAC
- Not to be confused with license class

Specialties

- Set forth in the regulations
- Determined by the Board based on public comment, industry movement, complaint histories
- Can be in any class just like classifications

Scope of Practice

- Defines the type of work generally allowed to be completed by the classification or specialty for both contractors and tradesman.
- Can be found in the regulations, or in rare instances in the statutes.
- Working outside of your "scope of practice" is a violation of the regulations.
- Often interpreted by permitting staff at locality (don't forget the incidental thing)
- sometimes specialties can "share" activities (like HIC/BLD)
- sometimes specialties are exclusive
- don't forget the "I" word

RMs, DEs, & QIs, Oh My!

- RM = Responsible Management (owners, officers, poohbas, LLC members, etc.)
- DE = Designated Employee (the person "designated" to take the examination) in A & B licenses only
- QI = Qualified Individual (the person with the knowledge and experience in the classification or specialty on the license)

Some special stuff about those guys

- RM – must be appropriately registered; no limit on number of firms associated with
- DE – must be a full time employee (so carries a two firm limit); confusing grandfather exam exemption
- QI – either full time employee or RM; may require additional licensing/qualifications in place prior to licensing; different years for different license class

Contractors

- Entity license
- Can do any contract within the limits of their class and scope of specialty
- Trade-related contractors must have a master as QI
- Doesn't have to send tradesman to job site

Trades

- Individual license
- Can only do work under \$1,000
- No differentiation between journeyman and master for work restrictions
- May be allowed to pull permits

- Different set of regulations

The licensing process (or it isn't issued until it's issued)

- Processed on first in-first out
- Fees not refundable
- Applications must be complete
- Applications with criminal histories, financial histories treated as non-routine
- The act of submitting an application does not meet the licensing requirements set forth in the regulations or law
- Licenses that are approved become effective on the day of the approval...there is no retroactive approval date
- Applicants can't bid or offer to do work with pending license application

Revocations/Suspensions and other Board sanctions

- Normally, licenses are valid for two years and easily renewable
- Revocations/Suspensions occur due to disciplinary action taken by the Board
- Most suspensions are the result of not paying fines or attending remedial education
- A contractor who has a revoked or suspended license is not permitted to finish a job that was already started

What you should know before you hire a contractor

- Have a clear idea of what you want done, do some homework.
- Check out the zoning and permitting requirements.
- How are you going to pay for the project?
- What kind of contractor do you need.
- Does the contractor hold the appropriate license?

Tips on choosing a contractor

- Hire only licensed contractors
- Review complaint history on DPOR website
- Hire only licensed contractors
- Get three references, review past work
- Hire only licensed contractors
- Get at least three bids
- Don't hire a contractor that is going door-to-door
- Hire only licensed contractors
- Pay 10% down, or \$1000, whatever is less***
- Hire only licensed contractors

So you want to do it yourself to save money?

- Do you need a permit? How about inspections?
- Hire properly licensed subs
- Be sure that you are exempt from licensure
- What to do if you hire a contractor and supply material...

Avoiding trouble (even with licensed guys)

- Hire only licensed contractors
- NEVER pull your own permit
- NEVER pay cash

- Refuse to pay for materials up front
- Insist on a detailed contract
- Stay away from contractors with “extra material”
- Cheap really is
- Avoid high pressure sales tactics
- Avoid high down payments
- Is it really an emergency?

What do you do if something still goes wrong?

- Check your contract
- Is it a code violation?
- Business is business
- Alternative Dispute Resolution
- File a complaint
- The Recovery Fund