

1 HB36
2 128582-3
3 By Representative Sanderford
4 RFD: Boards, Agencies and Commissions
5 First Read: 01-MAR-11
6 PFD: 02/25/2011

1
2 ENROLLED, An Act,

3 Relating to the Alabama Sunset Law; to continue the
4 existence and functioning of the State Licensing Board for
5 General Contractors with certain modifications; to amend
6 Sections 34-8-2, 34-8-7, and 34-8-28, Code of Alabama 1975, so
7 as to allow a licensee to apply for an increase in the amount
8 of his or her bid limit, change his or her classification, or
9 verify his or her license with a reciprocating state for fees
10 not greater than \$75 as set by the board; to provide for
11 inactive status; to clarify that a subcontractor is not
12 required to sit for any examination before licensure; and to
13 provide for the distribution of certain fees to institutions
14 of higher education after receipt by the board of all
15 certifications of enrollment packages.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Pursuant to the Alabama Sunset Law, the
18 Sunset Committee recommends the continuance of the State
19 Licensing Board for General Contractors, with the additional
20 recommendations for statutory change as set out in Section 3.

21 Section 2. The existence and functioning of the
22 State Licensing Board for General Contractors, created and
23 functioning pursuant to Sections 34-8-1 to 34-8-28, inclusive,
24 Code of Alabama 1975, is continued, and those code sections
25 are expressly preserved.

1 Section 3. Sections 34-8-2, 34-8-7, and 34-8-28 of
2 the Code of Alabama 1975, are amended to read as follows:

3 "§34-8-2.

4 "(a) Any person desiring to be licensed or desiring
5 a renewal of an existing license as a general contractor in
6 this state shall be a citizen of the United States or, if not
7 a citizen of the United States, a person who is legally pres-
8 ent in the United States with appropriate documentation from
9 the federal government, and shall make and file with the
10 board, not less than 30 days prior to any regular meeting
11 thereof, a written application on a form as prescribed for
12 examination by the board and the application shall be accompa-
13 nied by three hundred dollars (\$300) for a new application or
14 two hundred dollars (\$200) in case of a renewal. If a licensee
15 fails to renew his or her license within 90 days following
16 expiration of the previous license, a late penalty of fifty
17 dollars (\$50) shall be collected, upon renewal, in addition to
18 the renewal fee. The applicant shall apply for a license cov-
19 ering the type or types of contracts on which he or she wishes
20 to perform, and shall provide proof of liability insurance.
21 The board shall classify contractors according to the type or
22 types of contracts on which they may perform, within maximum
23 bid limits, on the following basis: The applicant's request,
24 his or her last annual financial statement prepared by a cer-
25 tified public accountant (C.P.A.) or by any independent li-

1 censed public accountant approved by the Licensing Board for
2 General Contractors, his or her previous experience, equip-
3 ment, and the facts in each case. An applicant shall not be so
4 classified as to permit him or her to bid on or to perform a
5 type of work not included in his or her request for a license.
6 If the application is satisfactory to the board, then the ap-
7 plicant may be required to take an examination to determine
8 his or her qualifications. If the result of the examination of
9 the applicant is satisfactory to the board, the board shall
10 then issue to the applicant a certificate to engage in general
11 contracting in the State of Alabama, stipulating in each li-
12 cense issued the type or types of work the contractor is per-
13 mitted to bid on or to perform under his or her license and
14 also setting out a letter symbol indicating the maximum limits
15 on which he or she is permitted to bid or to perform in a sin-
16 gle contract. The maximum bid limits shall be set by the for-
17 mula of not more than 10 times either the net worth or working
18 capital, whichever is the lesser amount, as shown by the ap-
19 plicant's latest financial statement and designated in the
20 classification set out herein that is the closest to this
21 amount. Should the financial statement of the applicant fail
22 to substantiate the limits requested, further consideration
23 may be given to either of the following: (1) the present mar-
24 ket value in lieu of book value of listed assets when properly
25 supported with substantiating evidence, including a combined

1 statement of the applicant that includes other wholly owned or
 2 substantially owned interests, or (2) the applicant may fur-
 3 nish a bond acceptable to the board equal in the amount of the
 4 applicant's negative working capital or net worth plus the
 5 amount of such net worth and working capital to satisfy the
 6 requested bid limit. When an applicant's statement qualifies
 7 for an amount in excess of classification "E", the limits
 8 shall then be set as classification Unlimited or "U". The fol-
 9 lowing letter symbols indicate the maximum amount bid limits
 10 allowed a licensee on any one single contract undertaking:

11	A - Not to exceed	\$100,000.00
12	B - Not to exceed	250,000.00
13	C - Not to exceed	500,000.00
14	D - Not to exceed	1,000,000.00
15	E - Not to exceed	3,000,000.00
16	U - Unlimited	

17 "(b) Any person failing to pass the examination may
 18 be reexamined at any regular or called meeting of the board.
 19 The certificate of authority to engage in the business of
 20 general contracting in the State of Alabama shall expire 12
 21 months following its issuance or renewal and shall become

1 invalid on that date unless renewed. The board may provide for
2 a transitional period following May 19, 1999, during which
3 licenses may be renewed for less than 12 months, or more than
4 12 months, in order to implement a staggered license renewal
5 schedule in which licenses would be renewed each month
6 throughout the year. Once the transitional period is
7 completed, each license shall be renewed for a 12-month
8 period. The board may promulgate rules and regulations
9 relating to the procedures for renewal of licenses. Upon the
10 renewal of a license, the board shall reclassify or confirm
11 the license both as to the types of work and bid limits as
12 specified in this section. A licensee may apply for and, on
13 proof satisfactory to the board, may receive an increase in
14 the amount of his or her bid limit ~~or a~~, change in his or her
15 classification, or verify his or her license with a
16 reciprocating state for fees not greater than seventy-five
17 dollars (\$75) as set by the board. Application for renewal of
18 a license, together with the payment of a fee of two hundred
19 dollars (\$200), received by the board at least 30 days prior
20 to expiration, shall serve to extend the current license until
21 the board either renews the license or denies the application.
22 A licensee may apply for inactive status by notifying the
23 board in writing at least 30 days before the expiration of his
24 or her license. The fee for inactive status is two hundred
25 dollars (\$200). The board shall provide by rule for the

1 activities that may be engaged in by an inactive status
2 licensee and for a procedure for reinstatement as an active
3 license holder. At the discretion of the board, a limited
4 license may be issued for a particular project.

5 "(c) The sum or fee of three hundred dollars (\$300)
6 accompanying original applications and sum or fee of two
7 hundred dollars (\$200) accompanying applications for renewals
8 under this section are for the administration and enforcement
9 of this chapter and shall not be refunded to the applicant.

10 "§34-8-7.

11 "(a) The following shall be exempted from this
12 chapter:

13 "(1) The practice of general contracting, as defined
14 in Section 34-8-1, by an authorized representative or
15 representatives of the United States Government, State of
16 Alabama, incorporated town, city, or county in this state,
17 which is under the supervision of a licensed architect or
18 engineer ~~and~~ provided any work contracted out by the
19 representative shall comply with the provisions of this
20 chapter for "general contractor."

21 "(2) The construction of any residence or private
22 dwelling.

23 "(3) A person, firm, or corporation constructing a
24 building or other improvements on his, her, or its own

1 property provided that any of the work contracted out complies
2 with the definition in this chapter for "general contractor."

3 "(4) The installation, repair, maintenance, or
4 removal of facilities, equipment, or systems used in or
5 substantially related to the generation, transmission, or
6 distribution of electric power, natural gas, or
7 telecommunications in an emergency by a utility regulated by
8 the Public Service Commission, or any entity engaged in the
9 generation, transmission, or distribution of electric power,
10 natural gas, or telecommunications, or any of their respective
11 general contractors or subcontractors, provided the work is
12 performed under the supervision of a licensed architect or
13 engineer. For purposes of this subdivision, the term
14 "emergency" is defined as a situation whereby service to the
15 consumer has been interrupted or may be interrupted if work to
16 remedy the emergency is not performed and completed within 60
17 days, and such other situations that are determined to be an
18 emergency in the discretion of the board.

19 "(5) The repair, maintenance, replacement,
20 reinstallation, or removal of facilities, equipment, or
21 systems used in or substantially related to the generation,
22 transmission, or distribution of electric power, natural gas,
23 or telecommunications on a routine, regular, or recurring
24 basis by a utility regulated by the Public Service Commission
25 or any entity engaged in the generation, transmission, or

1 distribution of electric power, natural gas, or
2 telecommunications or any of their respective general
3 contractors or subcontractors, provided the work is performed
4 under the supervision of a licensed architect or engineer.

5 "(6) Routine or regular maintenance, repair,
6 replacement, reinstallation, or removal of equipment,
7 specialized technological processes, or equipment facility
8 systems as determined by the board with regard to scope,
9 frequency, and speciality of the work to be performed.

10 "(b) The aforementioned exemptions shall exclude a
11 swimming pool contractor. Provided, however, a person, firm,
12 or corporation constructing a swimming pool on his, her, or
13 its own property shall be exempted from this chapter.

14 "(c) A subcontractor, as defined in subsection (c)
15 of Section 34-8-1, is subject to and shall comply with all the
16 provisions of this chapter as specified for general contractor
17 except as follows:

18 "(1) A subcontractor shall pay one-half the fees as
19 required in this chapter for general contractor.

20 "(2) No bid limits shall be established for a
21 subcontractor.

22 "(3) A subcontractor shall submit with license
23 application and renewals a statement of financial condition as
24 prescribed by the board.

1 "(4) A subcontractor shall furnish three references
2 from any combination of the following: Licensed general
3 contractors, registered professional engineers, or registered
4 architects, or qualified person, as declared by the board, for
5 whom they have worked. If a subcontractor has only been
6 employed by one company, the subcontractor shall provide the
7 following: Three or more jobs he or she has worked on, the
8 amounts of the contracts, the time period of the contracts,
9 the location of the contracts, and a statement of experience.

10 "(5) A subcontractor is not required to be licensed
11 at the time a project is bid, but must be licensed with the
12 board prior to beginning work on the project.

13 "(6) A general contractor license and license number
14 issued by the board to subcontractors shall denote
15 subcontractor status.

16 "(7) A subcontractor is not required to sit for any
17 examination before being licensed.

18 "§34-8-28.

19 "(a) An amount of one hundred dollars (\$100) from
20 the fees required for application and renewal for
21 certification and registration of general contractors in
22 Section 34-8-2, and an amount of fifty dollars (\$50) from the
23 fees required for application and renewal of the license of a
24 subcontractor pursuant to Section 34-8-7, shall be distributed
25 by the State Licensing Board for General Contractors ~~at the~~

1 ~~end of each fiscal year~~ to all accredited public institutions
2 of higher education offering American Council for Construction
3 Education accredited courses in building science, and to all
4 accredited public institutions of higher education offering
5 courses in building science which are in the candidate status
6 of the American Council for Construction Education and to
7 institutions of higher education offering courses leading to a
8 bachelor of civil engineering degree which offers courses in
9 highway engineering and construction at the undergraduate and
10 graduate levels and whose civil engineering program is
11 accredited by the Engineering Accreditation Commission of the
12 Accreditation Board for Engineering and Technology (ABET).
13 Funds identified by the general contractors and subcontractors
14 for building science shall be distributed pro rata among
15 institutions based upon the number of full-time equivalent
16 students enrolled in the department of building science at the
17 institution. Funds identified by the general contractors and
18 subcontractors for civil engineering shall be distributed pro
19 rata among institutions based upon the number of full-time
20 equivalent civil and pre-civil engineering students enrolled
21 at the institution. These funds shall be distributed 30 days
22 after certifications of enrollment packages have been received
23 from all eligible public institutions of higher education.

24 "(b) Revenue derived from the additional fees for
25 all licenses shall be distributed for (1) building science

1 (general construction) purposes and (2) civil engineering
2 (highway engineering or construction, or both) purposes.
3 Contractors shall be given an opportunity to select which
4 program they want to support.

5 "(c) Revenues derived from the additional fees for
6 all licenses that are not specifically designated by
7 contractors for one of the purposes above, shall be
8 distributed between the programs defined in subsection (a) in
9 a pro rata manner based on the number of full-time equivalent
10 students enrolled in each program at each institution.

11 "(d) Each institution receiving funds pursuant to
12 this article for building science purposes shall utilize the
13 funds for research projects relating to the construction
14 industry, for faculty development, for program enhancement,
15 and for continuing education programs related to construction.
16 The funds shall be administered by a committee appointed by
17 the dean responsible for the building science program, and
18 shall include the head of the department of building science,
19 or comparable position, faculty representatives, and
20 representatives of the building science industry advisory
21 committee of the institution.

22 "(e) Each institution receiving funds pursuant to
23 this article for civil engineering purposes shall utilize the
24 funds to enhance activities in the highway engineering or
25 construction area, or both. This includes, but is not limited

1 to, scholarships, fellowships, research, faculty development,
2 and continuing education. Funds received pursuant to this
3 article shall be administered by a committee appointed by the
4 dean of engineering. The committee should undertake, as part
5 of its mission, to work with the public and private sectors of
6 the highway industry to encourage student participation in
7 co-op and summer industry employment programs as well as to
8 lead students toward career employment in the highway industry
9 upon graduation.

10 "(f) Each institution receiving funds pursuant to
11 this article shall provide to the board an annual report on or
12 before January 31 for the preceding fiscal year during which
13 the institution received the funds. This report shall disclose
14 the total amount of funds received by the institution pursuant
15 to this article and shall provide an accurate accounting for
16 the utilization of the funds. The report shall disclose
17 sufficient detail to demonstrate compliance with the
18 utilization specifications prescribed in subsections (d) and
19 (e). Responsibility for the reports shall be retained by the
20 administrative committees formed pursuant to subsections (d)
21 and (e) and the dean appointing the committee.

22 "(g) The board shall retain an amount of five
23 percent of the amount to be distributed pursuant to subsection
24 (a) as a fee for administrative expenses associated with the
25 collection and distribution of the funds.

1 "(h) The provisions of this amendatory section are
2 remedial and curative and shall be retroactive to January 1,
3 1998."

4 Section 4. The Legislature concurs in the
5 recommendations of the Sunset Committee as provided in
6 Sections 1, 2, and 3.

7 Section 5. This act shall become effective
8 immediately upon its passage and approval by the Governor, or
9 its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 29-MAR-11.

Greg Pappas
Clerk

Senate	14-APR-11	Amended and Passed
House	21-APR-11	Concurred in Senate Amendment