

1 SB427
2 151133-1
3 By Senator Allen
4 RFD: Small Business
5 First Read: 11-APR-13

2
3
4
5
6
7
8 SYNOPSIS: Current law provides for the regulation of
9 heating and air conditioning contracting.

10 This bill would provide additional
11 requirements for individuals and entities regarding
12 system filter replacement, duct cleaning, and
13 testing for duct tightness.

14 This bill would also provide for classroom
15 training for home builders through the nonprofit
16 Alabama Home Builders Foundation.

17
18 A BILL

19 TO BE ENTITLED

20 AN ACT

21
22 To amend Sections 34-31-18, 34-31-20, 34-31-21,
23 34-31-24, and 34-31-25, Code of Alabama 1975, relating to the
24 regulation of heating and air conditioning contractors, to
25 include the regulation of the practices of duct cleaning,
26 checking duct tightness, and filter replacement by the Board
27 of Heating, Air Conditioning, and Refrigeration Contractors;

1 and to provide for the definition of terms, fees, and training
2 requirements for such practices; and to provide for classroom
3 training for home builders through the nonprofit Alabama Home
4 Builders Foundation.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Sections 34-31-18, 34-31-20, 34-31-21,
7 34-31-24, and 34-31-25, Code of Alabama 1975, are amended to
8 read as follows:

9 "§34-31-18.

10 "For the purposes of this chapter, the following
11 terms shall have the meanings herein ascribed to them unless
12 the context clearly indicates otherwise:

13 "(1) ADMINISTRATIVE PROCEDURE LAW. Sections 41-22-1
14 through 41-22-27, and any subsequent amendment or supplement
15 thereto, and any rules or regulations promulgated thereto.

16 "(2) APPRENTICE. A person other than a certified
17 heating, air conditioning, or refrigeration contractor, who is
18 engaged in learning and assisting in the installation,
19 service, or repair of a heating, air conditioning, or
20 refrigeration system and working under the direct supervision
21 of a certified heating, air conditioning, or refrigeration
22 contractor, and who has successfully fulfilled the voluntary
23 registration requirements of the board and has been duly
24 registered by the board as such for the current year.

25 "(3) BOARD. The State Board of Heating, Air
26 Conditioning, and Refrigeration Contractors, herein
27 established.

1 "(4) CERTIFICATION. The process of testing to
2 determine the knowledge and skill of an individual with
3 respect to heating, air conditioning, and refrigeration. This
4 term is used herein interchangeably with the term "license."

5 "(5) CERTIFIED FILTER REPLACEMENT AND DUCT CLEANING
6 CONTRACTOR. Any and all legal entities engaged in the business
7 of filter replacement, duct cleaning, or both.

8 "~~(5)~~ (6) CERTIFIED HEATING AND AIR CONDITIONING
9 CONTRACTOR. Any individual or any regularly employed person
10 for any partnership or corporation who for hire is engaged in
11 the installation or service and repair of heating and air
12 conditioning systems. Any and all legal entities engaged in
13 the business of heating and air conditioning contracting and
14 installation or service and repair.

15 "~~(6)~~ (7) CERTIFIED REFRIGERATION CONTRACTOR. Any and
16 all legal entities engaged in the business of refrigeration
17 contracting and servicing, installation, and repair.

18 "(8) DUCT AIR TIGHTNESS TESTING CONTRACTOR. Any
19 individual who engages in the practice of testing and
20 verifying duct air tightness in conjunction with the
21 installation, service, or repair of a heating and air
22 conditioning system.

23 "(9) DUCT CLEANING. The act of mechanical cleaning
24 or physical removal of debris and other foreign matter from a
25 duct system attached to a heating and air conditioning system.

1 "(10) FILTER REPLACEMENT. The act of installing or
2 removing air filters from a heating and air conditioning or
3 refrigeration system.

4 "~~(7)~~(11) HEATING AND AIR CONDITIONING SYSTEMS OR
5 SYSTEM. A heating and/or cooling apparatus consisting of an
6 air heating and/or cooling fixture from pipes, plenums, or
7 blowers including any accessory and equipment installed in
8 connection herewith; specifically excluding window units,
9 automotive, or farm implement type heating and/or air
10 conditioning equipment.

11 "~~(8)~~(12) INSTALLATION. The act of setting up or
12 installing a heating and air conditioning system or
13 refrigeration system for operation and use.

14 "~~(9)~~(13) REFRIGERATION. The use of mechanical or
15 absorption equipment to control temperature, humidity, or
16 both, in order to satisfy the intended use of a specific
17 space, other than for human comfort.

18 "~~(10)~~(14) REFRIGERATION TRADE OR BUSINESS. Includes
19 any and all legal entities engaged in the installation,
20 maintenance, servicing, and repairing of refrigerating
21 machinery, equipment, devices, and components.

22 "~~(11)~~(15) REGULARLY EMPLOYED PERSON. A person who is
23 an actual employee of the business, not an independent
24 contractor. The person must work an average of 30 or more
25 hours per week for the heating, air conditioning, or
26 refrigeration business. A regularly employed person must not

1 be paid as an independent contractor and must receive a W-2
2 for all earnings.

3 "~~(12)~~(16) RESPONSIBLE CHARGE. The direction of
4 projects involving the installation or service and repair of
5 heating, air conditioning, and refrigeration systems requiring
6 initiation, professional skills, technical knowledge, and
7 independent judgment.

8 "~~(13)~~(17) SERVICE AND REPAIR. The act of maintaining
9 for operation a heating, air conditioning, or refrigeration
10 system which has previously been installed including parts
11 replacement within a piece of equipment.

12 "§34-31-20.

13 "(a) The Board of Heating and Air Conditioning
14 Contractors as created by Act 82-547, 1982 Regular Session
15 (Acts 1982, p. 900), is renamed the Board of Heating, Air
16 Conditioning, and Refrigeration Contractors. The authority of
17 the board is expanded to allow the board to examine, certify,
18 and regulate heating, air conditioning, and refrigeration on a
19 statewide basis.

20 "(b) The board shall consist of 12 members, who
21 shall be citizens of this state and who shall be subject to
22 confirmation by the Senate. The seven initial appointments
23 shall be effective as of July 1, 1982, as follows: One member
24 shall be appointed by the Governor for an initial term of one
25 year, and shall be a licensed professional engineer; one
26 member shall be appointed by the Governor for an initial term
27 of four years and shall be a heating and air conditioning

1 contractor; one member shall be appointed by the Lieutenant
2 Governor for an initial term of three years and shall be a
3 trade representative of an equipment manufacturer or supplier;
4 one member shall be appointed by the Governor for an initial
5 term of three years and shall be a consumer from the general
6 public; one member shall be appointed by the Speaker of the
7 House of Representatives for an initial term of two years and
8 shall be a trade representative of the service, repair parts
9 industry; one member shall be appointed by the Lieutenant
10 Governor for an initial term of two years, and shall be a
11 representative from county or local inspection services
12 department; and one member shall be appointed by the Speaker
13 of the House of Representatives for an initial term of three
14 years, and shall be a consumer from the general public. Three
15 additional members shall be appointed to serve four-year terms
16 beginning on January 1, 2001. Each of these three additional
17 members shall be heating and air conditioning contractors. One
18 of these additional members shall be appointed by the
19 Governor, one of these additional members shall be appointed
20 by the Lieutenant Governor, and one of these additional
21 members shall be appointed by the President Pro Tempore of the
22 Senate. An additional two members, who shall be heating and
23 air conditioning contractors, shall be appointed by the
24 Speaker of the House of Representatives for initial terms of
25 three years. Their successors, who shall be appointed by the
26 same respective appointing authorities, and shall possess the
27 same respective occupational qualifications, shall each serve

1 not more than two consecutive terms of office of four years
2 each and until their successors are appointed and qualified.
3 The membership of the board shall be inclusive and reflect the
4 racial, gender, geographic, urban/rural, and economic
5 diversity of the state.

6 "(c) All moneys, equipment, and property of the
7 board created pursuant to Sections 34-31-1 through 34-31-17,
8 inclusive, shall, effective July 1, 1982, be transferred to
9 the board created in subsection (a). The board shall pay all
10 money received under this chapter to the State Treasurer, who
11 shall keep the money in a separate fund for the board. All
12 money remaining at the end of the fiscal year which exceeds 25
13 percent of the board's budget for the previous year shall be
14 transferred to the ~~State General Fund~~ 501(c)(3) nonprofit
15 Alabama Home Builders Foundation to be used exclusively for
16 classroom training tools at educational facilities that
17 provide heating, air conditioning and/or refrigeration
18 curriculum to include any program approved or accredited by
19 the State of Alabama, United States federal government, or any
20 state or federal governmental agency or board. If, at any
21 time, the Alabama Home Builders Foundation should lose its
22 nonprofit status, those funds shall be transferred to the
23 State General Fund.

24 "§34-31-21.

25 "(a) The board shall elect from among its members a
26 chairman, vice-chairman, and a secretary. The board may hire
27 an executive director to serve at the pleasure of the board.

1 The board may require the executive director to perform the
2 duties required by this section and any other tasks required
3 by the board. The board shall set the salary of the executive
4 director. The executive director, with the consent of the
5 board, may employ a deputy director who shall serve at the
6 pleasure of the ~~board~~ executive director. The salary and
7 compensation for the deputy director shall be set by the board
8 and shall not exceed the salary set for the executive
9 director.

10 "(b) The chairman shall preside over meetings of the
11 board. The vice-chairman shall preside over meetings of the
12 board in the absence of the chairman. The chairman shall
13 designate another member to preside in the absence of the
14 chairman and vice-chairman.

15 "(c) The secretary or, if directed by the board, the
16 executive director shall perform the following tasks:

17 "(1) Keep all minutes, books, records, and files of
18 the board.

19 "(2) Issue all certificates in the name of the
20 board.

21 "(3) Send all notices and attend to all
22 correspondence directed by the board.

23 "(4) Receive and deposit all fees.

24 "(5) Perform all incidental duties of the office as
25 directed by the board.

26 "(d) The secretary shall give bond, payable to the
27 Governor, in the penal sum of \$5,000 for the faithful

1 performance of his or her duties, and the premium therefor
2 shall be paid from the fees of the board.

3 "(e) No moneys shall be withdrawn from the funds of
4 the board except by direction of the board as provided by
5 state law.

6 "(f) A majority of the board shall constitute a
7 quorum for the transaction of all business.

8 "(g) The board is also authorized to adopt and
9 publish minimum repair and service standards for its certified
10 contractors, and shall mail a copy thereof to every certified
11 contractor at least 30 days before the standard of criteria
12 becomes effective. Certified contractors who fail to comply
13 with such minimum standards and criteria shall be punished as
14 prescribed in Section 34-31-32(a).

15 "(h) The board is authorized to hold hearings, call
16 witnesses, administer oaths, take testimony, and obtain
17 evidence in the conduct of its business. It is further
18 authorized to take such disciplinary actions as are authorized
19 in subsection (c) of Section 34-31-32.

20 "§34-31-24.

21 "(a) (1) No individual, partnership, or corporation
22 shall advertise, solicit, bid, obtain permit, do business, or
23 perform the function of a certified contractor unless the
24 person or persons in responsible charge, as defined in Section
25 34-31-18~~(12)~~, are certified contractors.

26 "~~(b)~~ (2) Every contractor licensed under this chapter
27 shall display the contractor's certification number and the

1 company name on any and all documentation, forms of
2 advertising, and on all service and installation vehicles used
3 in conjunction with heating, air conditioning, and
4 refrigeration contracting.

5 ~~"(c)(3)~~ A contractor licensed under this chapter may
6 not permit the use of his or her license by any other persons.

7 ~~"(d)(4)~~ No official charged with the duty of issuing
8 licenses to any individual, partnership, or corporation to
9 operate a business as a certified contractor shall issue such
10 license unless there is presented for inspection a certificate
11 of qualification as provided for herein issued by the board to
12 the individual or to some person in responsible charge with
13 the partnership or corporation.

14 "(b) The following requirements apply to the
15 practice of testing or verifying duct air tightness:

16 "(1) Any individual who engages in the practice of
17 testing and verifying duct air tightness is required to
18 register with the board. Such individuals shall not be
19 required to become a certified heating and air conditioning
20 contractor, but shall complete training as set forth by this
21 subsection. The board shall maintain a list of individuals who
22 are registered duct envelope testing contractors in the
23 practice of testing and verifying duct air tightness and
24 leakage. The board may establish fees to be paid by
25 registrants. All fees must accompany the application for
26 registration and are nonrefundable. All registrations must be
27 renewed by December 31 of each year beginning in 2013. The

1 board may establish a late fee for those individuals failing
2 to renew December 31.

3 "(2) Any board certified heating and air
4 conditioning contractor or home builder licensed by the
5 Alabama Home Builders Licensure Board, seeking to register as
6 a duct tightness tester for the purposes of testing ducts on
7 his or her own project or on a third party basis for the
8 general public, must successfully complete the Residential
9 Energy Services Network Home Energy Rating Systems (HERS)
10 Rater training, the Building Performance Institute Building
11 Analyst (BPI) training, or the Home Builders Association of
12 Alabama Qualified Credentialed Air Tightness Verifier (QCATV)
13 training. Any applicant that is not a board certified
14 contractor or a licensed home builder seeking to register as a
15 duct tightness tester for the purposes of testing duct work on
16 a third party basis for the general public, must successfully
17 complete the Residential Energy Services Network Home Energy
18 Rating System (HERS) Rater training or the Building
19 Performance Institute Building Analyst (BPI) training. Each
20 applicant must submit verification that he or she has
21 successfully completed the training required by at least one
22 of the above listed programs to the board prior to receiving
23 the registration in order to be added to the list of
24 registered individuals. Each registrant must submit completion
25 of subsequent annual training provided by the training program
26 he or she used to receive his or her initial registration
27 prior to annual re-registration by the board.

1 "(3) The board may discipline any registrant who
2 fails to conduct air tightness testing to the standards set
3 forth by the board. Discipline for registrants may include any
4 and all penalties authorized by this chapter.

5 "(c) (1) On and after the effective date of the act
6 adding this language, any and all legal entities that engage
7 in the business of filter replacement or duct cleaning must
8 submit an application and appropriate fees established by the
9 board to the board in order to receive a Filter Replacement
10 and Duct Cleaning Contractor Certification. Such contractors
11 shall not be required to become a certified heating and air
12 conditioning contractor, but shall be required to meet a
13 minimum of four hours of board-approved training on filter
14 replacement, duct cleaning, and basic system maintenance. In
15 order to be considered for approved training, the curriculum
16 requirements shall consist of basics of air quality, air
17 tightness, and proper filter installation in common systems.
18 All fees must accompany the application for registration or
19 registration renewal and are nonrefundable. All registrations
20 must be renewed annually. The board may establish a late fee
21 for those individuals failing to renew by November 30.

22 "(2) The board may discipline any registrant who
23 fails to conduct filter changing and/or duct cleaning to the
24 standards set forth by the board. Discipline for registrants
25 may include any penalty authorized by this chapter on a
26 licensed contractor.

27 "§34-31-25.

1 "(a) (1) For the purpose of defraying the expense in
2 carrying out the provisions of this chapter, the board may fix
3 fees to be paid by applicants for certificates, but in no
4 event shall the charges fixed by the board exceed two hundred
5 dollars (\$200). The inactive fees may be waived for building
6 officials or inspectors, as defined by the International Code
7 Council. All fees fixed by the board must accompany the
8 application, and no part of the fees shall be refunded. The
9 fees shall be received by the board and held solely for the
10 purpose of paying the expense of carrying out the provisions
11 of this chapter.

12 "(2) Renewal fees shall be established by the board
13 as to insure adequate funding to support the board. Fees shall
14 not exceed two hundred dollars (\$200) per year. The amount of
15 these fees shall be established by the board on an annual
16 basis to provide adequate funding to support the board and to
17 pay the expenses incurred for applications, examinations,
18 and/or renewals of licenses.

19 "(b) Fees for apprentice registration and annual
20 renewal fees shall not exceed fifty dollars (\$50).

21 "(c) Fees for Filter Replacement and Duct Cleaning
22 Contractors application and annual renewal shall not exceed
23 one hundred dollars (\$100).

24 "~~(c)~~ (d) All penalties collected by the board shall
25 be used in the same manner and for the same purpose as fees.

26 "~~(d) Renewal fees shall be established by the board~~
27 ~~as to insure adequate funding to support the board. Fees shall~~

1 ~~not exceed two hundred dollars (\$200) per year. The amount of~~
2 ~~these fees shall be established by the board on an annual~~
3 ~~basis to provide adequate funding to support the board and to~~
4 ~~pay the expenses incurred for applications, examinations,~~
5 ~~and/or renewals of licenses.~~

6 "(e) Fees for Duct Envelope Testing Contractors
7 application and annual renewal shall not exceed one hundred
8 dollars (\$100)."

9 Section 2. This act shall become effective on the
10 first day of the third month following its passage and
11 approval by the Governor, or its otherwise becoming law.