

1 HB142  
2 157143-3  
3 By Representative Williams (J)  
4 RFD: Boards, Agencies and Commissions  
5 First Read: 14-JAN-14  
6 PFD: 01/10/2014

1 ENGROSSED

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4 A BILL  
5 TO BE ENTITLED  
6 AN ACT  
7

8 To amend Sections 34-31-18, 34-31-20, 34-31-21,  
9 34-31-24, and 34-31-25, Code of Alabama 1975, relating to the  
10 regulation of heating and air conditioning contractors, to  
11 include the regulation of the practices of checking duct  
12 tightness by the Board of Heating, Air Conditioning, and  
13 Refrigeration Contractors; and to provide for the definition  
14 of terms, fees, and training requirements for such practices;  
15 and to provide for classroom training for home builders  
16 through the nonprofit Alabama Home Builders Foundation.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. Sections 34-31-18, 34-31-20, 34-31-21,  
19 34-31-24, and 34-31-25, Code of Alabama 1975, are amended to  
20 read as follows:

21 "§34-31-18.

22 "For the purposes of this chapter, the following  
23 terms shall have the meanings herein ascribed to them unless  
24 the context clearly indicates otherwise:

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

1           "(2) APPRENTICE. A person other than a certified  
2 heating, air conditioning, or refrigeration contractor, who is  
3 engaged in learning and assisting in the installation,  
4 service, or repair of a heating, air conditioning, or  
5 refrigeration system and working under the direct supervision  
6 of a certified heating, air conditioning, or refrigeration  
7 contractor, and who has successfully fulfilled the voluntary  
8 registration requirements of the board and has been duly  
9 registered by the board as such for the current year.

10           "(3) BOARD. The State Board of Heating, Air  
11 Conditioning, and Refrigeration Contractors, herein  
12 established.

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

17           "(5) CERTIFIED HEATING AND AIR CONDITIONING  
18 CONTRACTOR. ~~Any individual or any regularly employed person~~  
19 ~~for any partnership or corporation who for hire is engaged in~~  
20 ~~the installation or service and repair of heating and air~~  
21 ~~conditioning systems.~~ Any and all legal entities engaged in  
22 the business of heating and air conditioning contracting and  
23 installation or service and repair.

24           "(6) CERTIFIED REFRIGERATION CONTRACTOR. Any and all  
25 legal entities engaged in the business of refrigeration  
26 contracting and servicing, installation, and repair.

1                   "(7) DUCT AIR TIGHTNESS TESTING CONTRACTOR. Any  
2                   individual who engages in the practice of testing and  
3                   verifying duct air tightness in conjunction with the  
4                   installation, service, or repair of a heating and air  
5                   conditioning system.

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

13                   "~~(8)~~(9) INSTALLATION. The act of setting up or  
14                   installing a heating and air conditioning system or  
15                   refrigeration system for operation and use.

16                   "~~(9)~~(10) REFRIGERATION. The use of mechanical or  
17                   absorption equipment to control temperature, humidity, or  
18                   both, in order to satisfy the intended use of a specific  
19                   space, other than for human comfort.

20                   "~~(10)~~(11) REFRIGERATION TRADE OR BUSINESS. Includes  
21                   any and all legal entities engaged in the installation,  
22                   maintenance, servicing, and repairing of refrigerating  
23                   machinery, equipment, devices, and components.

24                   "~~(11)~~(12) REGULARLY EMPLOYED PERSON. A person who is  
25                   an actual employee of the business, not an independent  
26                   contractor. The person must work an average of 30 or more  
27                   hours per week for the heating, air conditioning, or

1 refrigeration business. A regularly employed person must not  
2 be paid as an independent contractor and must receive a W-2  
3 for all earnings.

4 "~~(12)~~(13) RESPONSIBLE CHARGE. The direction of  
5 projects involving the installation or service and repair of  
6 heating, air conditioning, and refrigeration systems requiring  
7 initiation, professional skills, technical knowledge, and  
8 independent judgment.

9 "~~(13)~~(14) SERVICE AND REPAIR. The act of maintaining  
10 for operation a heating, air conditioning, or refrigeration  
11 system which has previously been installed including parts  
12 replacement within a piece of equipment.

13 "§34-31-20.

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

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

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

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

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

25 "§34-31-21.

26 "(a) The board shall elect from among its members a  
27 chairman, vice-chairman, and a secretary. The board may hire

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

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

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

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

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

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

24 "(4) Receive and deposit all fees.

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



1           "(d) The secretary shall give bond, payable to the  
2 Governor, in the penal sum of \$5,000 for the faithful  
3 performance of his or her duties, and the premium therefor  
4 shall be paid from the fees of the board.

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

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

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

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

22           "(i) The board is authorized to expend funds for  
23 purposes of public awareness of the board and its rules and  
24 regulations to include advertising, promotional materials,  
25 event exhibiting, or other means approved by the board.

26           "§34-31-24.

1           "(a) (1) No individual, partnership, or corporation  
2 shall advertise, solicit, bid, obtain permit, do business, or  
3 perform the function of a certified contractor unless the  
4 person or persons in responsible charge, as defined in Section  
5 34-31-18~~(12)~~, are certified contractors.

6           "~~(b)~~ (2) Every contractor licensed under this chapter  
7 shall display the contractor's certification number and the  
8 company name on any and all documentation, forms of  
9 advertising, and on all service and installation vehicles used  
10 in conjunction with heating, air conditioning, and  
11 refrigeration contracting.

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

14           "~~(d)~~ (4) No official charged with the duty of issuing  
15 licenses to any individual, partnership, or corporation to  
16 operate a business as a certified contractor shall issue such  
17 license unless there is presented for inspection a certificate  
18 of qualification as provided for herein issued by the board to  
19 the individual or to some person in responsible charge with  
20 the partnership or corporation.

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

23           "(1) Any individual who engages in the practice of  
24 testing and verifying duct air tightness is required to  
25 register with the board. Such individuals shall not be  
26 required to become a certified heating and air conditioning  
27 contractor, but shall complete training as set forth by this

1 subsection. The board shall maintain a list of individuals who  
2 are registered duct envelope testing contractors in the  
3 practice of testing and verifying duct air tightness and  
4 leakage. The board may establish fees to be paid by  
5 registrants. All fees must accompany the application for  
6 registration and are nonrefundable. All registrations must be  
7 renewed by December 31 of each year beginning in 2013. The  
8 board may establish a late fee for those individuals failing  
9 to renew December 31.

10 "(2) Any board certified heating and air  
11 conditioning contractor or home builder licensed by the  
12 Alabama Home Builders Licensure Board, seeking to register as  
13 a duct tightness tester for the purposes of testing ducts on  
14 his or her own project or on a third party basis for the  
15 general public, must successfully complete the Residential  
16 Energy Services Network Home Energy Rating Systems (HERS)  
17 Rater training, the Building Performance Institute Building  
18 Analyst (BPI) training, or the Home Builders Association of  
19 Alabama Qualified Credentialed Air Tightness Verifier (QCATV)  
20 training. Any applicant that is not a board certified  
21 contractor or a licensed home builder seeking to register as a  
22 duct tightness tester for the purposes of testing duct work on  
23 a third party basis for the general public, must successfully  
24 complete the Residential Energy Services Network Home Energy  
25 Rating System (HERS) Rater training or the Building  
26 Performance Institute Building Analyst (BPI) training. Each  
27 applicant must submit verification that he or she has

1 successfully completed the training required by at least one  
2 of the above listed programs to the board prior to receiving  
3 the registration in order to be added to the list of  
4 registered individuals. Each registrant must submit completion  
5 of subsequent annual training provided by the training program  
6 he or she used to receive his or her initial registration  
7 prior to annual re-registration by the board.

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

12 "§34-31-25.

13 "(a) (1) For the purpose of defraying the expense in  
14 carrying out the provisions of this chapter, the board may fix  
15 fees to be paid by applicants for certificates for the  
16 issuance, reissuance, and replacement of certificates and for  
17 any other service provided by the board, but in no event shall  
18 the charges fixed by the board exceed two hundred dollars  
19 (\$200). The inactive fees may be waived for building officials  
20 or inspectors, as defined by the International Code Council.  
21 All fees fixed by the board must accompany the application,  
22 and no part of the fees shall be refunded. The fees shall be  
23 received by the board and held solely for the purpose of  
24 paying the expense of carrying out the provisions of this  
25 chapter.

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

8 "(c) All penalties collected by the board shall be  
9 used in the same manner and for the same purpose as fees.

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

17 "(d) Fees for Duct Envelope Testing Contractors  
18 application and annual renewal shall not exceed one hundred  
19 dollars (\$100)."

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

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House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on Boards, Agencies  
and Commissions..... . . . . 14-JAN-14

Read for the second time and placed  
on the calendar with 1 substitute  
and..... . . . . 22-JAN-14

Read for the third time and passed  
as amended..... . . . . 18-FEB-14

Yeas 93, Nays 0, Abstains 0

Jeff Woodard  
Clerk