

1 SB242
2 199714-3
3 By Senators Givhan, Price and Gudger
4 RFD: Fiscal Responsibility and Economic Development
5 First Read: 04-APR-19

1 SB242

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to the Home Builders Licensure Board; to
12 amend Sections 34-14A-1, 34-14A-2, 34-14A-3, and 34-14A-12,
13 Code of Alabama 1975, and to add Section 34-14A-20 to the Code
14 of Alabama 1975, to develop a statewide program to increase
15 the availability of construction trade education; to create
16 the Alabama Construction Trade Advisory Council; to develop a
17 statewide program to provide for the availability of
18 construction trade educational grants; to provide for the
19 administration of the program; to require the board to adopt
20 guidelines for the program; and to require the board to
21 establish an application process for the review of
22 applications for grants and the distribution of monies through
23 the program.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Sections 34-14A-1, 34-14A-2, 34-14A-3,
26 and 34-14A-12, Code of Alabama 1975, are amended to read as
27 follows:

1 "§34-14A-1.

2 "In the interest of the public health, safety,
3 welfare, and consumer protection and to regulate the home
4 building and private residence construction industry, the
5 purpose of this chapter, and the intent of the Legislature in
6 passing it, is to provide for the licensure of those persons
7 who engage in home building, private residence construction,
8 and home improvement industries, including remodeling, and to
9 provide home building standards and to support education
10 within the construction trades in the State of Alabama. The
11 Legislature recognizes that the home building and home
12 improvement construction industries are significant
13 industries. Home builders may pose significant harm to the
14 public when unqualified, incompetent, or dishonest home
15 builders and remodelers provide inadequate, unsafe, or
16 inferior building services. The Legislature finds it necessary
17 to regulate the residential home building and home improvement
18 industries.

19 "§34-14A-2.

20 "As used in this chapter, the following terms shall
21 have the following meanings, respectively, unless the context
22 clearly indicates otherwise:

23 "(1) ADVISORY COUNCIL. The Alabama Construction
24 Trade Advisory Council.

25 "~~(1)~~ (2) BOARD. The Home Builders Licensure Board.

26 "~~(2)~~ (3) COST OF THE UNDERTAKING. The total cost of
27 the materials, labor, supervision, overhead, and profit.

1 "~~(3)~~ (4) HOMEOWNER. A person who owns and resides in
2 or intends to reside in a structure constructed or remodeled
3 by a licensee of the board, or who contracts with a licensee
4 for the purchase, construction, repair, improvement, or
5 reimprovement of a structure to be used as a residence.

6 "~~(4)~~ (5) IMPROVEMENT. Any site-built addition or
7 enhancement attached to or detached from a residence or
8 structure for use and enjoyment by the homeowner.

9 "~~(5)~~ (6) INACTIVE LICENSE. A license issued at the
10 request of a licensee, or a building official or a building
11 inspector, that is renewable, but that is not currently valid.

12 "~~(6)~~ (7) LICENSE. Any license issued by the board
13 pursuant to this chapter.

14 "~~(7)~~ (8) LICENSEE. A holder of any license issued
15 pursuant to this chapter.

16 "~~(8)~~ (9) PERSON. Any natural person, limited or
17 general partnership, corporation, association, limited
18 liability company, or other legal entity, or any combination
19 thereof.

20 "~~(9)~~ (10) QUALIFYING REPRESENTATIVE. The individual
21 designated by a general partnership, limited partnership,
22 corporation, limited liability company, or not-for-profit
23 organization applying for a license who either holds a license
24 individually or meets the experience and ability requirements
25 for licensure, and who is one of the following:

26 "a. A general partner in the case of any
27 partnership.

1 "b. An officer in the case of a corporation.

2 "c. A member in the case of a member-managed limited
3 liability company.

4 "d. A manager in the case of a manager-managed
5 limited liability company.

6 "~~(10)~~ (11) RESIDENCE. A single unit providing
7 complete independent residential living facilities for one or
8 more persons, including permanent provisions for living,
9 sleeping, eating, cooking, and sanitation.

10 "~~(11)~~ (12) RESIDENTIAL HOME BUILDER. A person who
11 constructs a residence or structure for sale or who, for a
12 fixed price, commission, fee, or wage, undertakes or offers to
13 undertake the construction or superintending of the
14 construction, or who manages, supervises, assists, or provides
15 consultation to a homeowner regarding the construction or
16 superintending of the construction, of any residence or
17 structure that is not over three floors in height and that
18 does not have more than four residential units, or the repair,
19 improvement, or reimprovement thereof, to be used by another
20 as a residence when the cost of the undertaking exceeds ten
21 thousand dollars (\$10,000). Notwithstanding the foregoing, the
22 term includes a residential roofer when the cost of the
23 undertaking exceeds two thousand five hundred dollars
24 (\$2,500). Nothing herein shall prevent any person from
25 performing these acts on his or her own residence or on his or
26 her other real estate holdings. Anyone who engages or offers
27 to engage in any acts described in this subdivision, through

1 advertising or otherwise, shall be deemed to have engaged in
2 the business of residential home building.

3 "~~(12)~~ (13) RESIDENTIAL ROOFER. A person who installs
4 products or repairs surfaces on the external upper covering of
5 a residence or structure that seals, waterproofs, or
6 weatherproofs the residence or structure.

7 "~~(13)~~ (14) STRUCTURE. A residence on a single lot,
8 including a site-built home, a condominium, a duplex or
9 multi-unit residential building consisting of not more than
10 four residential units, or any improvement thereto.

11 "~~(14)~~ (15) TRANSACTION. The act of entering into a
12 contract with a licensee to engage in the business of
13 residential home building.

14 "§34-14A-3.

15 "There is established the Home Builders Licensure
16 Board to regulate the residential home building and
17 residential construction industry and to promote and expend
18 funds for the education and support of associated construction
19 trades. The board shall have nine members who shall be
20 appointed as follows: Three by the Governor, three by the
21 Lieutenant Governor, and three by the Speaker of the House of
22 Representatives, from a list of three qualified individuals
23 for each position, provided by the governing body of the Home
24 Builders Association of Alabama. Seven of the members shall be
25 residential home builders, as defined in this chapter, with at
26 least five years' experience as a residential home builder,
27 and each shall be a bona fide resident of the State of

1 Alabama. One member shall be a building official or inspector
2 currently employed by a city, county, or state governmental
3 entity and actively engaged in inspecting or regulating
4 residential construction in this state. One shall be a
5 consumer member of the general public not employed by or
6 affiliated with a licensee hereunder, and who has no spouse or
7 immediate family member employed by or affiliated with a
8 licensee hereunder. Each member of the board shall be a
9 citizen of this state, and the membership of the board shall
10 be inclusive and reflect the racial, gender, geographic,
11 urban/rural, and economic diversity of the state. Of the
12 initial members of this board, the appointing authorities
13 shall designate that each appointee shall serve for an initial
14 term of one, two, or three years, their terms of office
15 expiring on December 31, of the years. Subsequent terms shall
16 be for a period of three years. This appointing authority
17 shall make an appointment to fill a vacancy for the remainder
18 of any unexpired term from a list of three qualified persons
19 supplied by the governing body of the Home Builders
20 Association of Alabama. Each board member shall hold over
21 after the expiration of his or her term until his or her
22 successor shall be duly appointed and qualified.

23 "§34-14A-12.

24 "(a) The board is authorized to establish or adopt
25 ~~or both,~~ residential building codes and standards of practice
26 for residential home builders within the state.

1 "(b) The county commissions of the several counties
2 are authorized and empowered to adopt building laws and codes
3 by ordinance which shall apply in the unincorporated areas of
4 the county. The building laws and codes of the county
5 commission shall not apply within any municipal police
6 jurisdiction, in which that municipality is exercising its
7 building laws or codes, without the express consent of the
8 governing body of that municipality. The building laws and
9 codes of the county commission may apply within the corporate
10 limits of any municipality with the express consent of the
11 governing body of the municipality. The county commission may
12 employ building inspectors to see that its laws or codes are
13 not violated and that the plans and specifications for
14 buildings are not in conflict with the ordinances of the
15 county and may exact fees to be paid by the owners of the
16 property inspected.

17 "(c) Utilizing the same authority and procedures as
18 municipalities pursuant to Sections 11-53A-20 to 11-53A-26,
19 inclusive, the county commission may condemn buildings, parts
20 of buildings, or structures dangerous to the public and
21 prohibit the use thereof and abate the same as a nuisance.

22 "(d) The county commissions, municipalities, and
23 other public entities ~~are hereby authorized to~~ may enter into
24 mutual agreements, compacts, and contracts for the
25 administration and enforcement of their respective building
26 laws and codes."

1 Section 2. Section 34-14A-20 is added to Chapter 14A
2 of Title 34, Code of Alabama 1975, to read as follows:

3 §34-14A-20.

4 (a) The Alabama Construction Trade Academy Fund is
5 established in the State Treasury. The fund shall be comprised
6 of federal, state, and private funding through direct
7 budgetary funding and grants for the expansion of construction
8 trade education. To the extent practicable, monies in the fund
9 shall be used to leverage other forms of funding from private
10 sources. A percentage of matching funds, as established by the
11 advisory council, must come from private, non-governmental
12 sources. The board may not use more than 15 percent of the
13 monies in the fund for administrative and operational costs
14 incurred in the implementation and administration of this
15 section.

16 (b) The board, in cooperation with public and
17 private sector partners, shall establish a program to provide
18 funding mechanisms for tool grants, program incentives,
19 supplies, mobile facilities, and other programs to support the
20 development and continuation of construction trade education
21 programs in the state.

22 (c) The board shall administer the program and shall
23 apply for funds from federal grant programs and other
24 applicable funding sources authorized by law.

25 (d) (1) The Alabama Construction Trade Advisory
26 Council is established. The advisory council shall consist of
27 the following members:

1 a. One member appointed by and currently serving on
2 the Home Builders Licensure Board.

3 b. One member appointed by and currently serving on
4 the State of Alabama Plumbers and Gas Fitters Examining Board.

5 c. One member appointed by and currently serving on
6 the Licensing Board for General Contractors.

7 d. One member appointed by and currently serving on
8 the State Board of Heating, Air Conditioning, and
9 Refrigeration Contractors.

10 e. One member appointed by and currently serving on
11 the Alabama Board of Electrical Contractors.

12 f. One appointee of the State Department of
13 Education who specializes in technical trade education.

14 g. One appointee of the Alabama Community College
15 System who specializes in technical trade education.

16 (2) Members of the advisory council shall be
17 appointed for a period of one year. Membership on the advisory
18 council shall be without compensation, except for
19 reimbursement of necessary travel expenses as is paid to state
20 employees for attending meetings and other necessary events of
21 the advisory council. Any expenses paid to a member of the
22 advisory council shall be paid by the member's appointing
23 authority.

24 (e) The advisory council shall make recommendations
25 to the board, and the board shall establish program
26 guidelines, promote the program statewide, evaluate
27 applications for funds, distribute funds, and monitor and

1 report the effect of the funding on the availability of
2 construction trade education. The board may adopt rules to
3 implement and administer this act.

4 (f) The advisory council shall recommend and the
5 board shall establish monitoring and accountability mechanisms
6 for projects receiving funding. Not later than the fifth
7 legislative day of each regular legislative session, the board
8 shall file a report to the Legislature on the projects funded,
9 the geographic distribution of projects funded, the private
10 sector participation rates in funded projects, the
11 administrative costs of the program, and the outcomes of the
12 program, including the number of students and adult learners
13 trained by each project funded through the program.

14 (g) The advisory council shall recommend and the
15 board shall create eligibility guidelines and provide project
16 funding through an application process. Projects eligible for
17 funding include the following:

18 (1) Mobile demonstration units that show the various
19 systems of a structure and how they interconnect.

20 (2) Tool and supply grants for public and private
21 educational providers that provide construction trade
22 education.

23 (3) Incentives for newly established construction
24 trade education courses, with priority given to carpentry
25 courses.

26 (4) Adult education initiatives that provide
27 continued learning opportunities through mobile training

1 facilities or distance learning opportunities with priority
2 focus on those serving underserved areas and widely offered
3 trainings.

4 (5) Any other proposal that in the opinion of the
5 board would address the need for construction trade education
6 in the state.

7 (h) An applicant may be a nonprofit organization,
8 not-for-profit entity, public school system, two-year college,
9 university, or other governmental entity. An applicant for
10 funding shall do all of the following:

11 (1) Demonstrate its capacity to successfully
12 implement the proposal.

13 (2) Demonstrate how the proposal shall positively
14 impact construction trade education in the state.

15 (3) Demonstrate private sector support through
16 matching funding.

17 (4) Establish an advisory council consisting of at
18 least three active trade representatives from the construction
19 trade being funded.

20 (5) Agree, for a period of not less than five years,
21 to comply with the following conditions:

22 a. Offer the courses funded through this section for
23 a period of not less than five years.

24 b. Comply with all data collection and reporting
25 requirements established by the board.

26 (i) In determining which qualified projects to fund,
27 the board shall consider all of the following factors:

1 (1) The level of private sector support for the
2 project.

3 (2) The level of need in the area in which the
4 funding is directed.

5 (3) The projected number of students that will be
6 served.

7 (4) The degree to which the project will have a
8 positive impact on the availability of construction trade
9 education in the area to be served.

10 (5) The degree to which the project will leverage
11 public and private sector funds.

12 (j) The board shall establish program guidelines
13 that require matching funds on all funded projects. A minimum
14 of 10 percent of matching funds shall be provided by private,
15 non-governmental sources. Total matching funds required may
16 not be required to exceed 25 percent of awarded state funds,
17 although additional consideration may be provided to projects
18 that exceed this amount.

19 (k) In the event that a recipient of funding
20 provided by this section fails to provide the proposed project
21 in accordance with the guidelines set forth by the board, any
22 equipment, supplies, or materials acquired with the funding
23 shall be transferred to the Alabama Home Builders Foundation
24 for redistribution to public or private programs that provide
25 construction trade education to high school, postsecondary, or
26 adult learners supported by this section.

1 (1) Any and all proceeds from the sale of equipment,
2 supplies, or materials acquired through academy funding shall
3 go into the fund.

4 Section 3. This act shall become effective on the
5 first day of the third month following its passage and
6 approval by the Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate
committee on Fiscal Responsibility and Economic
Development..... 04-APR-19

Read for the second time and placed on the calen-
dar with 1 substitute and..... 02-MAY-19

Read for the third time and passed as amended 07-MAY-19

Yeas 30
Nays 0

Patrick Harris,
Secretary.