



**House Boards, Agencies and Commissions Reported
Substitute for SB101**

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A BILL
TO BE ENTITLED
AN ACT

Relating to the Board of Heating, Air Conditioning, and Refrigeration Contractors; to amend Sections 34-31-18, 34-31-24, 34-31-25, 34-31-28, 34-31-30, 34-31-32, and 34-31-34, Code of Alabama 1975, to further provide for the Board of Heating, Air Conditioning, and Refrigeration Contractors; to remove provisions governing apprentices; to allow an increase in the maximum amount of a performance bond; to allow contractors to perform electrical work incidental to the installation, service, or repair of residential heating and air conditioning systems; and to make nonsubstantive, technical revisions to update existing code language to current style.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 34-31-18, 34-31-24, 34-31-25, 34-31-28, 34-31-30, 34-31-32, and 34-31-34, Code of Alabama 1975, are amended to read as follows:

"§34-31-18

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



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29 (1) ADMINISTRATIVE PROCEDURE LAWACT. ~~Sections 41-22-1~~
30 ~~through 41-22-27, Chapter 22 of Title 41~~ and ~~any subsequent~~
31 ~~amendment or supplement thereto, and any rules or regulations~~
32 ~~promulgated thereto~~ adopted thereunder.

33 ~~(2) APPRENTICE. A person other than a certified~~
34 ~~heating, air conditioning, or refrigeration contractor, who is~~
35 ~~engaged in learning and assisting in the installation,~~
36 ~~service, or repair of a heating, air conditioning, or~~
37 ~~refrigeration system and working under the direct supervision~~
38 ~~of a certified heating, air conditioning, or refrigeration~~
39 ~~contractor, and who has successfully fulfilled the voluntary~~
40 ~~registration requirements of the board and has been duly~~
41 ~~registered by the board as such for the current year.~~

42 ~~(3)~~ (2) BOARD. The State Board of Heating, Air
43 Conditioning, and Refrigeration Contractors, ~~herein~~
44 ~~established~~.

45 ~~(4)~~ (3) CERTIFICATION or LICENSE. The process of testing
46 to determine the knowledge and skill of an individual with
47 respect to heating, air conditioning, and refrigeration. ~~This~~
48 ~~term is used herein interchangeably with the term "license."~~

49 ~~(5)~~ (4) CERTIFIED HEATING AND AIR CONDITIONING
50 CONTRACTOR. Any ~~and all legal entities~~ person engaged in the
51 business of heating and air conditioning contracting and
52 installation or service and repair.

53 ~~(6)~~ (5) CERTIFIED REFRIGERATION CONTRACTOR. Any ~~and all~~
54 ~~legal entities~~ person engaged in the business of refrigeration
55 contracting and servicing, installation, and repair.

56 ~~(7)~~ (6) DUCT AIR TIGHTNESS TESTING CONTRACTOR. Any



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57 ~~individual who engages~~ person engaged in the practice of
58 testing and verifying duct air tightness in conjunction with
59 the installation, service, or repair of a heating and air
60 conditioning system.

61 ~~(8)~~ (7) HEATING AND AIR CONDITIONING ~~SYSTEMS OR~~ SYSTEM.

62 A heating ~~and/or~~ or cooling apparatus consisting of an air
63 heating ~~and/or~~ or cooling fixture from pipes, plenums, or
64 blowers, including any accessory and equipment installed in
65 connection ~~herewith~~ within the system.; ~~specifically excluding~~
66 The term does not include window units, automotive, or farm
67 implement type heating or ~~and/or~~ air conditioning equipment.

68 ~~(9)~~ (8) INSTALLATION. The act of setting up or
69 installing a heating and air conditioning system or
70 refrigeration system for operation and use.

71 (9) PERSON. Includes an individual, firm, partnership,
72 or corporation.

73 (10) REFRIGERATION. The use of mechanical or absorption
74 equipment to control temperature, humidity, or both, in order
75 to satisfy the intended use of a specific space, other than
76 for human comfort.

77 (11) REFRIGERATION TRADE OR BUSINESS. ~~Includes any and~~
78 ~~all~~ Any individual and legal ~~entities~~ entity engaged in the
79 installation, maintenance, servicing, and repairing of
80 refrigerating machinery, equipment, devices, and components.

81 (12) REGULARLY EMPLOYED PERSON. ~~A person~~ An individual
82 ~~who is~~ meets all of the following conditions:

83 a. Is an actual employee of the business, not an
84 independent contractor. ~~The person must work~~



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85 b. Works an average of 30 or more hours per week for
86 the heating, air conditioning, or refrigeration business.

87 c. Is ~~A regularly employed person must not be~~ paid as
88 an independent contractor.

89 d. and must receive Receives a Form W-2, Wage and Tax
90 Statement, for all earnings.

91 (13) RESPONSIBLE CHARGE. The direction of projects
92 involving the installation or service and repair of heating,
93 air conditioning, and refrigeration systems requiring
94 initiation, professional skills, technical knowledge, and
95 independent judgment.

96 (14) SERVICE AND REPAIR. The act of maintaining for
97 operation a heating, air conditioning, or refrigeration system
98 ~~which~~ that has previously been installed, including parts
99 replacement within a piece of equipment."

100 "§34-31-24

101 (a) (1) No ~~individual, partnership, or corporation shall~~
102 person may advertise, solicit, bid, obtain ~~permit~~ permits, do
103 business, or perform the function of a certified contractor
104 unless the person ~~or persons~~ in responsible charge, ~~as defined~~
105 ~~in Section 34-31-18, are~~ is a certified ~~contractors~~ contractor.

106 (2) Every contractor licensed under this chapter shall
107 display the contractor's certification number and the company
108 name on ~~any and~~ all documentation, forms of advertising, and
109 on all service and installation vehicles used in conjunction
110 with heating, air conditioning, and refrigeration contracting.

111 (3) A contractor licensed under this chapter may not
112 permit the use of his or her license by any other



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113 ~~persons~~person.

114 (4) No official ~~charged with the duty of issuing~~ who
115 issues licenses to any ~~individual, partnership, or corporation~~
116 person to operate a business as a certified contractor ~~shall~~
117 may issue ~~such a~~ license unless there is presented for
118 inspection a certificate of qualification ~~as provided for~~
119 ~~herein~~ issued by the board to the individual or to ~~some~~ the
120 person in responsible charge with the partnership or
121 corporation.

122 (b) The following requirements apply to the practice of
123 testing or verifying duct air tightness:

124 (1) Any individual who engages in the practice of
125 testing and verifying duct air tightness is required to
126 register with the board. ~~Such~~ The individuals ~~shall not be~~ are
127 not required to become a certified heating and air
128 conditioning contractor, but shall complete training as set
129 forth by this subsection. The board shall maintain a list of
130 individuals who are registered duct envelope testing
131 contractors in the practice of testing and verifying duct air
132 tightness and leakage. The board may establish fees to be paid
133 by registrants. All fees must accompany the application for
134 registration and are nonrefundable. All registrations must be
135 renewed by December 31 of each year ~~beginning in 2016~~. The
136 board may establish a late fee for those individuals failing
137 to renew by December 31.

138 (2) Any board certified heating and air conditioning
139 contractor, or home builder licensed by the Alabama Home
140 Builders Licensure Board, seeking to register as a duct



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141 tightness tester for the purposes of testing ducts on his or
142 her own project or on a third party basis for the general
143 public, must successfully complete the Residential Energy
144 Services Network Home Energy Rating Systems (HERS) Rater
145 training, the Building Performance Institute Building Analyst
146 (BPI) training, or the Home Builders Association of Alabama
147 Qualified Credentialed Air Tightness Verifier (QCATV)
148 training. Any applicant that is not a board certified
149 contractor or a licensed home builder seeking to register as a
150 duct tightness tester for the purposes of testing duct work on
151 a third party basis for the general public, must successfully
152 complete the Residential Energy Services Network Home Energy
153 Rating System (HERS) Rater training or the Building
154 Performance Institute Building Analyst (BPI) training. Each
155 applicant must submit verification that he or she has
156 successfully completed the training required by at least one
157 of the above listed programs to the board prior to receiving
158 the registration in order to be added to the list of
159 registered individuals. Each registrant must submit proof of
160 completion, approved by the Home Builders Association of
161 Alabama, prior to annual re-registration by the board.

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

166 "§34-31-25

167 (a) (1) For the purpose of defraying the expense in
168 carrying out ~~the provisions of~~ this chapter, the board may fix



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169 fees to be paid for the issuance, reissuance, and replacement
 170 of certificates, and for any other service provided by the
 171 board, but in no event shall the charges fixed by the board
 172 exceed two hundred fifty dollars (\$250). The inactive fees may
 173 be waived for building officials or inspectors, as defined by
 174 the International Code Council. All fees fixed by the board
 175 must accompany the application, and no part of the fees shall
 176 be refunded. The fees shall be received by the board and held
 177 solely for the purpose of paying the expense of carrying out
 178 ~~the provisions of~~ this chapter.

179 (2) Renewal fees shall be established by the board ~~as~~
 180 ~~to insure~~ ensure adequate funding to support the board. Fees
 181 shall not exceed two hundred fifty dollars (\$250) per year.
 182 The amount of these fees shall be established by the board on
 183 an annual basis to provide adequate funding to support the
 184 board and to pay the expenses incurred for applications,
 185 examinations, ~~and/or~~ renewals of licenses.

186 ~~(b) Fees for apprentice registration and annual renewal~~
 187 ~~fees shall not exceed fifty dollars (\$50).~~

188 ~~(e)~~ (b) All penalties collected by the board shall be
 189 used in the same manner and for the same purpose as fees.

190 ~~(d)~~ (c) Fees for Duct Envelope Testing Contractors
 191 application and annual renewal shall not exceed one hundred
 192 dollars (\$100)."

193 "§34-31-28

194 (a) All prospective certified contractors in this state
 195 ~~desiring~~ seeking to qualify in accordance with ~~the provisions~~
 196 ~~of~~ this chapter shall be required to stand for a written



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197 examination before the board. Any applicant failing to pass
198 his or her first examination for a certificate ~~shall be~~
199 ~~entitled to~~may take any subsequent examination, either written
200 or, upon request of the applicant, a practical examination
201 which is equivalent to the written examination, to be held
202 within six months from the date of his or her ~~first or latest~~
203 unsuccessful examination.

204 ~~(b) The board shall register every person who may apply~~
205 ~~for an apprentice heating, air conditioning, or refrigeration~~
206 ~~registration certificate upon forms provided by the board and~~
207 ~~upon payment of all prescribed fees.~~

208 ~~(e)~~ (b) The board shall examine the character, fitness,
209 and qualifications of every ~~person~~individual who applies for a
210 certified heating, air conditioning, or refrigeration
211 contractor license upon forms prescribed by the board and upon
212 payment of all prescribed fees.

213 ~~(d)~~ (c) An applicant for examination for a heating, air
214 conditioning, or refrigeration certified contractor license
215 shall be eligible to stand for the examination if the
216 applicant has ~~held an apprentice registration, issued by this~~
217 ~~board, for two or more calendar years; or has~~ completed 3,000
218 hours of ~~coursework or~~work experience, as defined by the
219 board~~,~~, or is a graduate of an approved heating, air
220 conditioning, or refrigeration curriculum.

221 ~~(e) All legal entities engaged in the refrigeration~~
222 ~~business for a period of two years prior to May 13, 2009, may~~
223 ~~apply to the board for a certified refrigeration contractor~~
224 ~~license without standing for a written examination. The~~



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225 ~~applicant shall provide evidence of such experience to the~~
 226 ~~board as promulgated in the rules of the board. An applicant~~
 227 ~~who does not apply for such certification by December 31,~~
 228 ~~2011, must stand for the written examination.~~

229 ~~(f)~~ (d) Counties, municipalities, or other local
 230 entities are ~~hereby~~ prohibited from requiring any further
 231 local testing or satisfaction of other requirements ~~of~~ by
 232 certified contractors, subject to the payment of any
 233 applicable local privilege, license, or business fees or
 234 charges.

235 ~~(g)~~ (e) ~~Persons~~ Individuals licensed by the Alabama
 236 Liquefied Petroleum Gas Board are exempt from this chapter
 237 pertaining to heating, air conditioning, and refrigeration
 238 when:

239 (1) Engaged in the installation, repair, or replacement
 240 of a liquefied petroleum gas appliance so long as the
 241 appliance is not connected to a refrigeration system, ~~except~~
 242 provided that ~~such persons~~ the individuals may ~~also~~ engage in
 243 the replacement or repair of a liquefied petroleum gas central
 244 heating unit when it is combined with an air conditioning
 245 unit.

246 (2) Engaged in the installation of a venting system
 247 required for a vented-type liquefied petroleum gas appliance.

248 ~~(h)~~ (f) This chapter does not apply to any of the
 249 following:

250 (1) An authorized employee of the United States, ~~the~~
 251 ~~State of Alabama~~ this state, or any municipality, county, or
 252 other political subdivision, if the employee does not hold



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253 himself or herself out for hire or otherwise engage in
254 contracting except in accordance with his or her employment.

255 (2) Any mobile home or manufactured structure that is
256 installed, inspected, or regulated by the Alabama Manufactured
257 Housing Commission; however, the repair, servicing of a
258 heating and air conditioning system, or the installation of a
259 new heating and air conditioning system in a previously
260 inspected manufactured structure is subject to this chapter.

261 (3) ~~Persons~~Individuals performing work on motor
262 vehicles, residential refrigerators, or ice machines.

263 (4) Household appliances.

264 (5) Farm equipment.

265 (6) Poultry operations whether engaged in hatching,
266 primary processing, or further processing of chicken, turkey,
267 or other fowl."

268 "§34-31-30

269 The board may require a performance bond ~~in the amount~~
270 ~~of fifteen thousand dollars (\$15,000)~~not to exceed twenty-five
271 thousand dollars (\$25,000) per year for all active certified
272 contractors. There shall be no discrimination between
273 contractors similarly situated, and each classification of
274 regulated contractors for bonding purposes must be reasonable
275 ~~in light of~~considering the purpose of the bond."

276 "§34-31-32

277 (a) Except as provided in Section 13A-9-111.1, any
278 ~~person~~individual engaged in business as a certified contractor
279 or performing the functions of a certified contractor in
280 violation of this chapter shall be guilty of a Class A



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281 misdemeanor, ~~as defined by the state criminal code.~~

282 (b) The board may impose late penalties on ~~those~~
283 certified contractors who fail to renew certificates by
284 December 31 of each year. The board may also remove the
285 certification from any certified ~~person~~individual who fails to
286 renew his or her certificate by the first day of March and
287 require the ~~person~~ individual to apply for a new certificate.
288 ~~Furthermore, the board may remove, revoke, or suspend the~~
289 ~~certification from any certified contractor who provides~~
290 ~~substandard or dangerous service, repair, or installation, or~~
291 ~~who otherwise violates this chapter, and may require such~~
292 ~~person to apply for a new certification.~~ The board may ~~also~~
293 require the successful re-testing of any ~~such~~ previously
294 certified ~~person~~individual who applies for a new
295 certification.

296 (c) The board may reprimand, in writing, any certified
297 contractor who provides substandard or dangerous service,
298 repair, or installation, or who otherwise violates this
299 chapter.

300 (d) The board may remove, revoke, or suspend the
301 certification of any certified contractor who provides
302 substandard or dangerous service, repair, or installation, or
303 who otherwise violates this chapter, and may require any
304 previously certified individual to apply for a new
305 certification.

306 ~~(d)~~ (e) The board may levy and collect administrative
307 fines for ~~serious~~ violations of this chapter or the rules of
308 the board of not more than two thousand dollars (\$2,000) for



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309 each violation.

310 ~~(e)~~ (f) (1) In addition to or in lieu of the criminal
311 penalties and administrative sanctions provided in this
312 chapter, the board may issue an order to any person, ~~firm, or~~
313 ~~corporation~~ engaged in any activity, conduct, or practice
314 ~~constituting that is~~ a violation of this chapter, directing
315 the person, ~~firm, or corporation~~ to cease and desist from the
316 activity, conduct, practice, or performance of any work ~~then~~
317 ~~being done in progress~~ or about to be commenced. The order
318 shall be issued in the name of the ~~State of Alabama~~ this state
319 under the authority of the board.

320 (2) If the person, ~~firm, or corporation~~ fails to
321 immediately comply with the ~~whom the board directs a~~ cease and
322 desist order, ~~does not cease or desist the proscribed~~
323 ~~activity, conduct, practice, or performance of work~~
324 ~~immediately,~~ the board shall ~~cause to issue in~~ petition any
325 court of competent jurisdiction ~~and proper venue,~~ to issue a
326 writ of injunction enjoining the person, ~~firm, or corporation~~
327 from engaging in any activity, conduct, practice, or
328 performance of work prohibited by this chapter. Upon a
329 sufficient showing by the board that the person, ~~firm, or~~
330 ~~corporation~~ has engaged or is engaged in any activity,
331 conduct, practice, or performance of work prohibited by this
332 chapter, the ~~courts~~ court shall may issue a temporary
333 restraining order ~~restraining to~~ enjoin the person, ~~firm, or~~
334 ~~corporation~~ from engaging in ~~such unlawful activity, conduct,~~
335 ~~practice, or~~ the performance of work pending the hearing on a
336 preliminary injunction, ~~and in due course.~~ After a hearing,



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337 the court may issue a permanent injunction ~~shall issue after~~
 338 ~~the hearing,~~ commanding the cessation of the ~~unlawful~~
 339 ~~activity, conduct, practice, or~~ performance of work complained
 340 of, all without the necessity of the board having to give
 341 bond. A temporary restraining order, preliminary injunction,
 342 or permanent injunction issued pursuant to this subsection
 343 shall not be subject to being released on bond.

344 (3) In the suit for an injunction, the board may ~~demand~~
 345 ~~of the defendant~~ issue a fine of up to two thousand dollars
 346 (\$2,000) plus costs for each offense. ~~Anyone violating this~~
 347 ~~chapter who fails~~

348 (4) Any failure to cease work, after a hearing and
 349 notification from the board, shall ~~not be eligible~~ render an
 350 individual ineligible to apply for a certified contractor's
 351 license for a period not to exceed one year from the date of
 352 official notification to cease work. The board may withhold
 353 approval, for up to six months, of any application from
 354 ~~anyone~~ any individual who, prior to the application, has been
 355 found in violation of this chapter."

356 "§34-31-34

357 Any appeals to the chapter shall be as defined by the
 358 Alabama Administrative Procedure Act, ~~Chapter 22 of Title 41.~~
 359 Any judicial review pursuant to the Alabama Administrative
 360 Procedure Act must be filed, commenced, and maintained in the
 361 Circuit Court of Montgomery County, Alabama."

362 Section 2. This act shall become effective on October
 363 1, 2024.