

SB101 ENROLLED



1 SB101
2 F7XGDDC-2
3 By Senators Kelley, Elliott, Kitchens, Sessions, Carnley,
4 Shelnutt, Orr, Figures, Beasley, Bell, Jones
5 RFD: Fiscal Responsibility and Economic Development
6 First Read: 14-Feb-24



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1 Enrolled, An Act,

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4 Relating to the Board of Heating, Air Conditioning, and
5 Refrigeration Contractors; to amend Sections 34-31-18,
6 34-31-24, 34-31-25, 34-31-28, 34-31-30, 34-31-32, and
7 34-31-34, Code of Alabama 1975, to further provide for the
8 Board of Heating, Air Conditioning, and Refrigeration
9 Contractors; to remove provisions governing apprentices; to
10 allow an increase in the maximum amount of a performance bond;
11 to allow contractors to perform electrical work incidental to
12 the installation, service, or repair of residential heating
13 and air conditioning systems; and to make nonsubstantive,
14 technical revisions to update existing code language to
15 current style.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Sections 34-31-18, 34-31-24, 34-31-25,
18 34-31-28, 34-31-30, 34-31-32, and 34-31-34, Code of Alabama
19 1975, are amended to read as follows:

20 "§34-31-18

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

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

28 ~~(2) APPRENTICE. A person other than a certified~~



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29 ~~heating, air conditioning, or refrigeration contractor, who is~~
30 ~~engaged in learning and assisting in the installation,~~
31 ~~service, or repair of a heating, air conditioning, or~~
32 ~~refrigeration system and working under the direct supervision~~
33 ~~of a certified heating, air conditioning, or refrigeration~~
34 ~~contractor, and who has successfully fulfilled the voluntary~~
35 ~~registration requirements of the board and has been duly~~
36 ~~registered by the board as such for the current year.~~

37 ~~(3)~~ (2) BOARD. The State Board of Heating, Air
38 Conditioning, and Refrigeration Contractors, ~~herein~~
39 ~~established.~~

40 ~~(4)~~ (3) CERTIFICATION or LICENSE. The process of testing
41 to determine the knowledge and skill of an individual with
42 respect to heating, air conditioning, and refrigeration. ~~This~~
43 ~~term is used herein interchangeably with the term "license."~~

44 ~~(5)~~ (4) CERTIFIED HEATING AND AIR CONDITIONING
45 CONTRACTOR. Any ~~and all legal entities~~ person engaged in the
46 business of heating and air conditioning contracting and
47 installation or service and repair.

48 ~~(6)~~ (5) CERTIFIED REFRIGERATION CONTRACTOR. Any ~~and all~~
49 ~~legal entities~~ person engaged in the business of refrigeration
50 contracting and servicing, installation, and repair.

51 ~~(7)~~ (6) DUCT AIR TIGHTNESS TESTING CONTRACTOR. Any
52 ~~individual who engages~~ person engaged in the practice of
53 testing and verifying duct air tightness in conjunction with
54 the installation, service, or repair of a heating and air
55 conditioning system.

56 ~~(8)~~ (7) HEATING AND AIR CONDITIONING ~~SYSTEMS OR SYSTEM.~~



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

63 ~~(9)~~ (8) INSTALLATION. The act of setting up or
64 installing a heating and air conditioning system or
65 refrigeration system for operation and use.

66 (9) PERSON. Includes an individual, firm, partnership,
67 or corporation.

68 (10) REFRIGERATION. The use of mechanical or absorption
69 equipment to control temperature, humidity, or both, in order
70 to satisfy the intended use of a specific space, other than
71 for human comfort.

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

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

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

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

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

84 d. and ~~must receive~~ Receives a Form W-2, Wage and Tax



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85 Statement, for all earnings.

86 (13) RESPONSIBLE CHARGE. The direction of projects
87 involving the installation or service and repair of heating,
88 air conditioning, and refrigeration systems requiring
89 initiation, professional skills, technical knowledge, and
90 independent judgment.

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

95 "§34-31-24

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

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

106 (3) A contractor licensed under this chapter may not
107 permit the use of his or her license by any other
108 ~~persons~~person.

109 (4) No official ~~charged with the duty of issuing~~ who
110 issues licenses to any ~~individual, partnership, or corporation~~
111 person to operate a business as a certified contractor ~~shall~~
112 may issue ~~such a~~ license unless there is presented for



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113 inspection a certificate of qualification ~~as provided for~~
114 ~~herein~~ issued by the board to the individual or to ~~some~~ the
115 person in responsible charge with the partnership or
116 corporation.

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

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

133 (2) Any board certified heating and air conditioning
134 contractor, or home builder licensed by the Alabama Home
135 Builders Licensure Board, seeking to register as a duct
136 tightness tester for the purposes of testing ducts on his or
137 her own project or on a third party basis for the general
138 public, must successfully complete the Residential Energy
139 Services Network Home Energy Rating Systems (HERS) Rater
140 training, the Building Performance Institute Building Analyst



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

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

161 "§34-31-25

162 (a) (1) For the purpose of defraying the expense in
163 carrying out ~~the provisions of~~ this chapter, the board may fix
164 fees to be paid for the issuance, reissuance, and replacement
165 of certificates, and for any other service provided by the
166 board, but in no event shall the charges fixed by the board
167 exceed two hundred fifty dollars (\$250). The inactive fees may
168 be waived for building officials or inspectors, as defined by



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169 the International Code Council. All fees fixed by the board
170 must accompany the application, and no part of the fees shall
171 be refunded. The fees shall be received by the board and held
172 solely for the purpose of paying the expense of carrying out
173 ~~the provisions of~~ this chapter.

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

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

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

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

188 "§34-31-28

189 (a) All prospective certified contractors in this state
190 ~~desiring~~ seeking to qualify in accordance with ~~the provisions~~
191 ~~of~~ this chapter shall be required to stand for a written
192 examination before the board. Any applicant failing to pass
193 his or her first examination for a certificate ~~shall be~~
194 ~~entitled to~~ may take any subsequent examination, either written
195 or, upon request of the applicant, a practical examination
196 which is equivalent to the written examination, to be held



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197 within six months from the date of his or her ~~first or latest~~
198 unsuccessful examination.

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

203 ~~(e)~~ (b) The board shall examine the character, fitness,
204 and qualifications of every ~~person~~ individual who applies for a
205 certified heating, air conditioning, or refrigeration
206 contractor license upon forms prescribed by the board and upon
207 payment of all prescribed fees.

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

216 ~~(e) All legal entities engaged in the refrigeration~~
217 ~~business for a period of two years prior to May 13, 2009, may~~
218 ~~apply to the board for a certified refrigeration contractor~~
219 ~~license without standing for a written examination. The~~
220 ~~applicant shall provide evidence of such experience to the~~
221 ~~board as promulgated in the rules of the board. An applicant~~
222 ~~who does not apply for such certification by December 31,~~
223 ~~2011, must stand for the written examination.~~

224 ~~(f)~~ (d) Counties, municipalities, or other local



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225 entities are ~~hereby~~ prohibited from requiring any further
226 local testing or satisfaction of other requirements ~~of~~ by
227 certified contractors, subject to the payment of any
228 applicable local privilege, license, or business fees or
229 charges.

230 ~~(g)~~ (e) ~~Persons~~ Individuals licensed by the Alabama
231 Liquefied Petroleum Gas Board are exempt from this chapter
232 pertaining to heating, air conditioning, and refrigeration
233 when:

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

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

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

245 (1) An authorized employee of the United States, ~~the~~
246 ~~State of Alabama~~ this state, or any municipality, county, or
247 other political subdivision, if the employee does not hold
248 himself or herself out for hire or otherwise engage in
249 contracting except in accordance with his or her employment.

250 (2) Any mobile home or manufactured structure that is
251 installed, inspected, or regulated by the Alabama Manufactured
252 Housing Commission; however, the repair, servicing of a



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253 heating and air conditioning system, or the installation of a
254 new heating and air conditioning system in a previously
255 inspected manufactured structure is subject to this chapter.

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

258 (4) Household appliances.

259 (5) Farm equipment.

260 (6) Poultry operations whether engaged in hatching,
261 primary processing, or further processing of chicken, turkey,
262 or other fowl."

263 "§34-31-30

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

271 "§34-31-32

272 (a) Except as provided in Section 13A-9-111.1, any
273 ~~person~~individual engaged in business as a certified contractor
274 or performing the functions of a certified contractor in
275 violation of this chapter shall be guilty of a Class A
276 misdemeanor, ~~as defined by the state criminal code.~~

277 (b) The board may impose late penalties on ~~those~~
278 certified contractors who fail to renew certificates by
279 December 31 of each year. The board may also remove the
280 certification from any certified ~~person~~individual who fails to



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281 renew his or her certificate by the first day of March and
282 require the ~~person~~ individual to apply for a new certificate.
283 ~~Furthermore, the board may remove, revoke, or suspend the~~
284 ~~certification from any certified contractor who provides~~
285 ~~substandard or dangerous service, repair, or installation, or~~
286 ~~who otherwise violates this chapter, and may require such~~
287 ~~person to apply for a new certification. The board may also~~
288 require the successful re-testing of any ~~such~~ previously
289 certified person individual who applies for a new
290 certification.

291 (c) The board may reprimand, in writing, any certified
292 contractor who provides substandard or dangerous service,
293 repair, or installation, or who otherwise violates this
294 chapter.

295 (d) The board may remove, revoke, or suspend the
296 certification of any certified contractor who provides
297 substandard or dangerous service, repair, or installation, or
298 who otherwise violates this chapter, and may require any
299 previously certified individual to apply for a new
300 certification.

301 ~~(d)~~ (e) The board may levy and collect administrative
302 fines for ~~serious~~ violations of this chapter or the rules of
303 the board of not more than two thousand dollars (\$2,000) for
304 each violation.

305 ~~(e)~~ (f) (1) In addition to or in lieu of the criminal
306 penalties and administrative sanctions provided in this
307 chapter, the board may issue an order to any person, ~~firm, or~~
308 ~~corporation~~ engaged in any activity, conduct, or practice



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309 ~~constituting that is~~ a violation of this chapter, directing
310 the person, ~~firm, or corporation~~ to cease and desist from the
311 activity, conduct, practice, or performance of any work ~~then~~
312 ~~being done in~~ progress or about to be commenced. The order
313 shall be issued in the name of the ~~State of Alabama~~ this state
314 under the authority of the board.

315 (2) If the person, ~~firm, or corporation~~ fails to
316 immediately comply with the ~~whom the board directs a~~ cease and
317 desist order, ~~does not cease or desist the proscribed~~
318 ~~activity, conduct, practice, or performance of work~~
319 ~~immediately,~~ the board shall ~~cause to issue in~~ petition any
320 court of competent jurisdiction ~~and proper venue,~~ to issue a
321 writ of injunction enjoining the person, ~~firm, or corporation~~
322 from engaging in any activity, conduct, practice, or
323 performance of work prohibited by this chapter. Upon a
324 sufficient showing by the board that the person, ~~firm, or~~
325 ~~corporation~~ has engaged or is engaged in any activity,
326 conduct, practice, or performance of work prohibited by this
327 chapter, the ~~court~~ court shall ~~may~~ issue a temporary
328 restraining order ~~restraining to~~ enjoin the person, ~~firm, or~~
329 ~~corporation~~ from engaging in ~~such unlawful activity, conduct,~~
330 ~~practice, or~~ the performance of work pending the hearing on a
331 preliminary injunction, ~~and in due course.~~ After a hearing,
332 the court may issue a permanent injunction ~~shall issue after~~
333 ~~the hearing,~~ commanding the cessation of the ~~unlawful~~
334 ~~activity, conduct, practice, or performance of work~~ complained
335 of, all without the necessity of the board having to give
336 bond. A temporary restraining order, preliminary injunction,



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337 or permanent injunction issued pursuant to this subsection
338 shall not be subject to being released on bond.

339 (3) In the suit for an injunction, the board may ~~demand~~
340 ~~of the defendant~~ issue a fine of up to two thousand dollars
341 (\$2,000) plus costs for each offense. ~~Anyone violating this~~
342 ~~chapter who fails~~

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

351 "§34-31-34

352 Any appeals to the chapter shall be as defined by the
353 Alabama Administrative Procedure Act, ~~Chapter 22 of Title 41.~~
354 Any judicial review pursuant to the Alabama Administrative
355 Procedure Act must be filed, commenced, and maintained in the
356 Circuit Court of Montgomery County, Alabama."

357 Section 2. This act shall become effective on October
358 1, 2024.



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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB101
Senate 27-Feb-24
I hereby certify that the within Act originated in and passed
the Senate.

Patrick Harris,
Secretary.

House of Representatives
Amended and passed: 30-Apr-24

Senate concurred in House amendment 30-Apr-24

By: Senator Kelley