

SB101 INTRODUCED



1 SB101
2 QPDK454-1
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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SYNOPSIS:

Under existing law, the Board of Heating, Air Conditioning, and Refrigeration Contractors certifies individuals to install, service, or repair heating, air conditioning, and refrigeration systems.

This bill would further provide for the Board of Heating, Air Conditioning, and Refrigeration Contractors.

This bill would remove provisions related to apprentices.

This bill would allow an increase in the maximum amount of a performance bond.

This bill would allow contractors to perform certain electrical work incidental to the installation, service, or repair of residential heating and air conditioning systems.

This bill would also make nonsubstantive, technical revisions to update existing code language to current style.

A BILL
TO BE ENTITLED
AN ACT



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

41 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

42 Section 1. Sections 34-31-18, 34-31-24, 34-31-25,
43 34-31-28, 34-31-30, 34-31-32, and 34-31-34, Code of Alabama
44 1975, are amended to read as follows:

45 "§34-31-18

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

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

53 ~~(2) APPRENTICE. A person other than a certified~~
54 ~~heating, air conditioning, or refrigeration contractor, who is~~
55 ~~engaged in learning and assisting in the installation,~~
56 ~~service, or repair of a heating, air conditioning, or~~



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57 ~~refrigeration system and working under the direct supervision~~
58 ~~of a certified heating, air conditioning, or refrigeration~~
59 ~~contractor, and who has successfully fulfilled the voluntary~~
60 ~~registration requirements of the board and has been duly~~
61 ~~registered by the board as such for the current year.~~

62 ~~(3)~~ (2) BOARD. The State Board of Heating, Air
63 Conditioning, and Refrigeration Contractors, ~~herein~~
64 ~~established.~~

65 ~~(4)~~ (3) CERTIFICATION or LICENSE. The process of testing
66 to determine the knowledge and skill of an individual with
67 respect to heating, air conditioning, and refrigeration. ~~This~~
68 ~~term is used herein interchangeably with the term "license."~~

69 ~~(5)~~ (4) CERTIFIED HEATING AND AIR CONDITIONING
70 CONTRACTOR. Any ~~and all legal entities~~ person engaged in the
71 business of heating and air conditioning contracting and
72 installation or service and repair.

73 ~~(6)~~ (5) CERTIFIED REFRIGERATION CONTRACTOR. Any ~~and all~~
74 ~~legal entities~~ person engaged in the business of refrigeration
75 contracting and servicing, installation, and repair.

76 ~~(7)~~ (6) DUCT AIR TIGHTNESS TESTING CONTRACTOR. Any
77 ~~individual who engages~~ person engaged in the practice of
78 testing and verifying duct air tightness in conjunction with
79 the installation, service, or repair of a heating and air
80 conditioning system.

81 ~~(8)~~ (7) HEATING AND AIR CONDITIONING ~~SYSTEMS OR~~ SYSTEM.
82 A heating ~~and/or~~ or cooling apparatus consisting of an air
83 heating ~~and/or~~ or cooling fixture from pipes, plenums, or
84 blowers, including any accessory and equipment installed in



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85 connection ~~herewith~~ within the system.; ~~specifically excluding~~
86 The term does not include window units, automotive, or farm
87 implement type heating or ~~and/or~~ air conditioning equipment.

88 ~~(9)~~ (8) INSTALLATION. The act of setting up or
89 installing a heating and air conditioning system or
90 refrigeration system for operation and use.

91 (9) PERSON. Includes an individual, firm, partnership,
92 or corporation.

93 (10) REFRIGERATION. The use of mechanical or absorption
94 equipment to control temperature, humidity, or both, in order
95 to satisfy the intended use of a specific space, other than
96 for human comfort.

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

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

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

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

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

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

111 (13) RESPONSIBLE CHARGE. The direction of projects
112 involving the installation or service and repair of heating,



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113 air conditioning, and refrigeration systems requiring
114 initiation, professional skills, technical knowledge, and
115 independent judgment.

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

120 "§34-31-24

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

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

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

134 (4) No official ~~charged with the duty of issuing~~ who
135 issues licenses to any ~~individual, partnership, or corporation~~
136 person to operate a business as a certified contractor ~~shall~~
137 may issue ~~such~~ a license unless there is presented for
138 inspection a certificate of qualification ~~as provided for~~
139 ~~herein~~ issued by the board to the individual or to ~~some~~ the
140 person in responsible charge with the partnership or



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141 corporation.

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

144 (1) Any individual who engages in the practice of
145 testing and verifying duct air tightness is required to
146 register with the board. ~~Such~~ The individuals ~~shall not be~~ are
147 not required to become a certified heating and air
148 conditioning contractor, but shall complete training as set
149 forth by this subsection. The board shall maintain a list of
150 individuals who are registered duct envelope testing
151 contractors in the practice of testing and verifying duct air
152 tightness and leakage. The board may establish fees to be paid
153 by registrants. All fees must accompany the application for
154 registration and are nonrefundable. All registrations must be
155 renewed by December 31 of each year ~~beginning in 2016~~. The
156 board may establish a late fee for those individuals failing
157 to renew by December 31.

158 (2) Any board certified heating and air conditioning
159 contractor, or home builder licensed by the Alabama Home
160 Builders Licensure Board, seeking to register as a duct
161 tightness tester for the purposes of testing ducts on his or
162 her own project or on a third party basis for the general
163 public, must successfully complete the Residential Energy
164 Services Network Home Energy Rating Systems (HERS) Rater
165 training, the Building Performance Institute Building Analyst
166 (BPI) training, or the Home Builders Association of Alabama
167 Qualified Credentialed Air Tightness Verifier (QCATV)
168 training. Any applicant that is not a board certified



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169 contractor or a licensed home builder seeking to register as a
170 duct tightness tester for the purposes of testing duct work on
171 a third party basis for the general public, must successfully
172 complete the Residential Energy Services Network Home Energy
173 Rating System (HERS) Rater training or the Building
174 Performance Institute Building Analyst (BPI) training. Each
175 applicant must submit verification that he or she has
176 successfully completed the training required by at least one
177 of the above listed programs to the board prior to receiving
178 the registration in order to be added to the list of
179 registered individuals. Each registrant must submit proof of
180 completion, approved by the Home Builders Association of
181 Alabama, prior to annual re-registration by the board.

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

186 "§34-31-25

187 (a) (1) For the purpose of defraying the expense in
188 carrying out ~~the provisions of~~ this chapter, the board may fix
189 fees to be paid for the issuance, reissuance, and replacement
190 of certificates, and for any other service provided by the
191 board, but in no event shall the charges fixed by the board
192 exceed two hundred fifty dollars (\$250). The inactive fees may
193 be waived for building officials or inspectors, as defined by
194 the International Code Council. All fees fixed by the board
195 must accompany the application, and no part of the fees shall
196 be refunded. The fees shall be received by the board and held



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197 solely for the purpose of paying the expense of carrying out
198 ~~the provisions of~~ this chapter.

199 (2) Renewal fees shall be established by the board ~~as~~
200 to ~~insure~~ ensure adequate funding to support the board. Fees
201 shall not exceed two hundred fifty dollars (\$250) per year.
202 The amount of these fees shall be established by the board on
203 an annual basis to provide adequate funding to support the
204 board and to pay the expenses incurred for applications,
205 examinations, ~~and/or~~ renewals of licenses.

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

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

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

213 "§34-31-28

214 (a) All prospective certified contractors in this state
215 ~~desiring~~ seeking to qualify in accordance with ~~the provisions~~
216 ~~of~~ this chapter shall be required to stand for a written
217 examination before the board. Any applicant failing to pass
218 his or her first examination for a certificate ~~shall be~~
219 ~~entitled to~~ may take any subsequent examination, either written
220 or, upon request of the applicant, a practical examination
221 which is equivalent to the written examination, to be held
222 within six months from the date of his or her ~~first or latest~~
223 unsuccessful examination.

224 ~~(b) The board shall register every person who may apply~~



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225 ~~for an apprentice heating, air conditioning, or refrigeration~~
226 ~~registration certificate upon forms provided by the board and~~
227 ~~upon payment of all prescribed fees.~~

228 ~~(e)~~ (b) The board shall examine the character, fitness,
229 and qualifications of every ~~person~~ individual who applies for a
230 certified heating, air conditioning, or refrigeration
231 contractor license upon forms prescribed by the board and upon
232 payment of all prescribed fees.

233 ~~(d)~~ (c) An applicant for examination for a heating, air
234 conditioning, or refrigeration certified contractor license
235 shall be eligible to stand for the examination if the
236 applicant has ~~held an apprentice registration, issued by this~~
237 ~~board, for two or more calendar years; or has~~ completed 3,000
238 hours of ~~coursework or~~ work experience, as defined by the
239 board~~;~~ , or is a graduate of an approved heating, air
240 conditioning, or refrigeration curriculum.

241 ~~(e)~~ ~~All legal entities engaged in the refrigeration~~
242 ~~business for a period of two years prior to May 13, 2009, may~~
243 ~~apply to the board for a certified refrigeration contractor~~
244 ~~license without standing for a written examination. The~~
245 ~~applicant shall provide evidence of such experience to the~~
246 ~~board as promulgated in the rules of the board. An applicant~~
247 ~~who does not apply for such certification by December 31,~~
248 ~~2011, must stand for the written examination.~~

249 ~~(f)~~ (d) Counties, municipalities, or other local
250 entities are ~~hereby~~ prohibited from requiring any further
251 local testing or satisfaction of other requirements ~~of~~ by
252 certified contractors, subject to the payment of any



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253 applicable local privilege, license, or business fees or
254 charges.

255 ~~(g)~~ (e) PersonsIndividuals licensed by the Alabama
256 Liquefied Petroleum Gas Board are exempt from this chapter
257 pertaining to heating, air conditioning, and refrigeration
258 when:

259 (1) Engaged in the installation, repair, or replacement
260 of a liquefied petroleum gas appliance so long as the
261 appliance is not connected to a refrigeration system, ~~except~~
262 provided that ~~such persons~~ the individuals may ~~also~~ engage in
263 the replacement or repair of a liquefied petroleum gas central
264 heating unit when it is combined with an air conditioning
265 unit.

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

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

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

275 (2) Any mobile home or manufactured structure that is
276 installed, inspected, or regulated by the Alabama Manufactured
277 Housing Commission; however, the repair, servicing of a
278 heating and air conditioning system, or the installation of a
279 new heating and air conditioning system in a previously
280 inspected manufactured structure is subject to this chapter.



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

283 (4) Household appliances.

284 (5) Farm equipment.

285 (6) Poultry operations whether engaged in hatching,
286 primary processing, or further processing of chicken, turkey,
287 or other fowl.

288 (g) A contractor, licensed pursuant to this chapter for
289 the installation, service, or repair of residential heating
290 and air conditioning systems, is permitted to install all
291 electrical connections required to energize the equipment
292 being installed, serviced, or repaired, including dedicated
293 electrical wiring from the electrical panel to the unit, and
294 shall not be subject to the requirements of Chapter 36 of
295 Title 34, relating to electrical contractors, for the conduct
296 of the work."

297 "§34-31-30

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

305 "§34-31-32

306 (a) Except as provided in Section 13A-9-111.1, any
307 ~~person~~individual engaged in business as a certified contractor
308 or performing the functions of a certified contractor in



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309 violation of this chapter shall be guilty of a Class A
310 misdemeanor, ~~as defined by the state criminal code.~~

311 (b) The board may impose late penalties on ~~those~~
312 certified contractors who fail to renew certificates by
313 December 31 of each year. The board may also remove the
314 certification from any certified ~~person~~individual who fails to
315 renew his or her certificate by the first day of March and
316 require the ~~person~~ individual to apply for a new certificate.
317 ~~Furthermore, the board may remove, revoke, or suspend the~~
318 ~~certification from any certified contractor who provides~~
319 ~~substandard or dangerous service, repair, or installation, or~~
320 ~~who otherwise violates this chapter, and may require such~~
321 ~~person to apply for a new certification.~~ The board may ~~also~~
322 require the successful re-testing of any ~~such~~ previously
323 certified ~~person~~individual who applies for a new
324 certification.

325 (c) The board may reprimand, in writing, any certified
326 contractor who provides substandard or dangerous service,
327 repair, or installation, or who otherwise violates this
328 chapter.

329 (d) The board may remove, revoke, or suspend the
330 certification of any certified contractor who provides
331 substandard or dangerous service, repair, or installation, or
332 who otherwise violates this chapter, and may require any
333 previously certified individual to apply for a new
334 certification.

335 ~~(d)~~ (e) The board may levy and collect administrative
336 fines for ~~serious~~ violations of this chapter or the rules of



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337 the board of not more than two thousand dollars (\$2,000) for
338 each violation.

339 ~~(e)~~ (f) (1) In addition to or in lieu of the criminal
340 penalties and administrative sanctions provided in this
341 chapter, the board may issue an order to any person, ~~firm, or~~
342 ~~corporation~~ engaged in any activity, conduct, or practice
343 ~~constituting that is~~ a violation of this chapter, directing
344 the person, ~~firm, or corporation~~ to cease and desist from the
345 activity, conduct, practice, or performance of any work ~~then~~
346 ~~being done in progress~~ or about to be commenced. The order
347 shall be issued in the name of the ~~State of Alabama~~ this state
348 under the authority of the board.

349 (2) If the person, ~~firm, or corporation~~ fails to
350 immediately comply with the ~~whom the board directs a~~ cease and
351 desist order, ~~does not cease or desist the proscribed~~
352 ~~activity, conduct, practice, or performance of work~~
353 ~~immediately,~~ the board shall ~~cause to issue in~~ petition any
354 court of competent jurisdiction ~~and proper venue,~~ to issue a
355 writ of injunction enjoining the person, ~~firm, or corporation~~
356 from engaging in any activity, conduct, practice, or
357 performance of work prohibited by this chapter. Upon a
358 sufficient showing by the board that the person, ~~firm, or~~
359 ~~corporation~~ has engaged or is engaged in any activity,
360 conduct, practice, or performance of work prohibited by this
361 chapter, the ~~courts~~ court shall may issue a temporary
362 restraining order ~~restraining to~~ enjoin the person, ~~firm, or~~
363 ~~corporation~~ from engaging in ~~such unlawful activity, conduct,~~
364 ~~practice, or~~ the performance of work pending the hearing on a



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365 preliminary injunction, ~~and in due course~~. After a hearing,
366 the court may issue a permanent injunction ~~shall issue after~~
367 ~~the hearing~~, commanding the cessation of the ~~unlawful~~
368 ~~activity, conduct, practice, or~~ performance of work complained
369 of, all without the necessity of the board having to give
370 bond. A temporary restraining order, preliminary injunction,
371 or permanent injunction issued pursuant to this subsection
372 shall not be subject to being released on bond.

373 (3) In the suit for an injunction, the board may ~~demand~~
374 ~~of the defendant~~ issue a fine of up to two thousand dollars
375 (\$2,000) plus costs for each offense. ~~Anyone violating this~~
376 ~~chapter who fails~~

377 (4) Any failure to cease work, after a hearing and
378 notification from the board, shall ~~not be eligible~~ render an
379 individual ineligible to apply for a certified contractor's
380 license for a period not to exceed one year from the date of
381 official notification to cease work. The board may withhold
382 approval, for up to six months, of any application from
383 ~~anyone~~ any individual who, prior to the application, has been
384 found in violation of this chapter."

385 "§34-31-34

386 Any appeals to the chapter shall be as defined by the
387 Alabama Administrative Procedure Act, ~~Chapter 22 of Title 41~~.
388 Any judicial review pursuant to the Alabama Administrative
389 Procedure Act must be filed, commenced, and maintained in the
390 Circuit Court of Montgomery County, Alabama."

391 Section 2. This act shall become effective on October
392 1, 2024.