

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
90th General Assembly
Regular Session, 2015

As Engrossed: S3/4/15
A Bill

SENATE BILL 631

By: Senator Hester
By: Representative Womack

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING THE COST OF WORK
AND MATERIALS REQUIRING A GENERAL CONTRACTOR'S
LICENSE; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING THE COST OF
WORK AND MATERIALS REQUIRING A GENERAL
CONTRACTOR'S LICENSE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 17-25-101(a) and (b), concerning the definition of "contractor", are amended to read as follows:

(a)(1) As used in this chapter, "contractor" means any person, firm, partnership, copartnership, association, corporation, or other organization, or any combination thereof, that, for a fixed price, commission, fee, or wage, attempts to or submits a bid to construct or demolish, or contracts or undertakes to construct or demolish, or assumes charge, in a supervisory capacity or otherwise, or manages the construction, erection, alteration, demolition, or repair, or has or have constructed, erected, altered, demolished, or repaired, under his or her, their, or its direction, any building, apartment, condominium, highway, sewer, utility, grading, or any other improvement or structure on public or private property for lease, rent, resale, public access, or similar purpose, except single-family residences, when the cost of the work to be done, or done, in the State of Arkansas by the contractor, including, but not limited to, labor and materials, is ~~twenty~~



fifty thousand dollars ~~(\$20,000)~~ (\$50,000) or more.

(2) However, when a person or an entity acts as a contractor in the construction, erection, alteration, demolition, or repair of his or her own or its own property, such action shall not result in the person or entity being required to obtain a license, but the person or entity shall comply with all other provisions of this subchapter.

(b) However, the ~~twenty-thousand-dollar~~ fifty-thousand-dollar exception shall not apply to any project of construction in which any of the construction work necessary to complete the project, except any in-progress change orders, is divided into separate contracts of amounts less than ~~twenty~~ fifty thousand dollars ~~(\$20,000)~~ (\$50,000), a purpose being to circumvent the provisions of this chapter.

(c) It is the intention of this definition to include all improvements, demolition, or structures, excepting only single-family residences.

(d)(1) Materials purchased by a prime contractor from a third party shall not be considered as part of the subcontractor's project if the prime contractor has the proper classification listed on a current contractor's license for the work being performed by the subcontractor.

(2) Materials purchased by a person or an entity acting as a contractor in the construction, erection, alteration, or repair of his or her own or its own property from a third party shall not be considered as a part of the subcontractor's project, provided that the subcontract is for wood framing, shingle roofing, painting, floor covering, or concrete labor.

SECTION 2. Arkansas Code § 17-25-103(a)(1)(A), concerning penalties for contracting without a license, is amended to read as follows:

(1)(A) For a fixed price, commission, fee, or wage attempts to or submits a bid or bids to construct or demolish or contracts to construct or demolish, or undertakes to construct or demolish, or assumes charge in a supervisory capacity or otherwise, or manages the construction, erection, alteration, demolition, or repair of, or has constructed, erected, altered, demolished, or repaired, under his or her or its direction, any building, apartment, condominium, highway, sewer, utility, grading, or any other improvement or structure, when the cost of the work to be done, or done, in the State of Arkansas by the contractor, including, but not limited to, labor and materials, is ~~twenty~~ fifty thousand dollars ~~(\$20,000)~~ (\$50,000) or more,

without first having procured a license with the proper classification to engage in the business of contracting in this state.

SECTION 3. Arkansas Code § 17-25-301(b)(1), concerning proof of licensing, is amended to read as follows:

(b)(1) Upon making application to the building inspector or other authority of any incorporated city or town in Arkansas charged with the duty of issuing building or other permits for the construction of any building, apartment, condominium, utility, highway, sewer, grading, or any other improvement or structure, when the cost of the work to be done by the contractor, but not limited to labor and materials, is ~~twenty~~ fifty thousand dollars ~~(\$20,000)~~ (\$50,000) or more, any person, firm, or corporation, before being entitled to the issuance of such permits, shall furnish satisfactory proof to the inspector or authority that he or she is duly licensed under the terms of this chapter.

SECTION 4. Arkansas Code § 17-25-401(b), concerning the definition of contractor, is amended to read as follows:

(b) However, when a person or entity acts as a contractor in the construction, erection, alteration, or repair of his or her own or its own property or of a single-family residence, or if the cost of the work to be done, including, but not limited to, labor and materials, is less than ~~twenty~~ fifty thousand dollars ~~(\$20,000)~~ (\$50,000), the person or entity shall not be deemed a contractor under this chapter.

SECTION 5. Arkansas Code § 17-25-506(a), concerning applications for licensure, is amended to read as follows:

(a) Applications for licensure shall be made on forms prescribed by the Residential Contractors Committee and shall have attached thereto:

(1)(A) Except as provided in subdivision (a)(1)(B) of this section, a compiled financial statement with each application for all persons and entities required by this subchapter to be licensed by the committee when the cost of the work done or to be done in the State of Arkansas by the contractor, including without limitation labor and materials, is ~~twenty~~ fifty thousand dollars ~~(\$20,000)~~ (\$50,000) or more.

(B) A person or entity required to be licensed under

this subchapter when the cost of the work done or to be done in the State of Arkansas by the contractor, including without limitation labor and materials, is less than ~~twenty~~ fifty thousand dollars ~~(\$20,000)~~ (\$50,000) shall not be required to submit a financial statement; and

(2) Such other information as required by the committee.

SECTION 6. Arkansas Code § 17-25-514(c), concerning when workers' compensation is required, is amended to read as follows:

(c) Unless otherwise required by law, a home improvement contractor required to be licensed under this subchapter shall not be required to secure the payment of workers' compensation under § 11-9-401 et seq. or provide proof of coverage to the committee before issuing or receiving a license if the cost of the work done or to be done in the State of Arkansas by the home improvement contractor, including without limitation labor and materials, is less than ~~twenty~~ fifty thousand dollars ~~(\$20,000)~~ (\$50,000).

SECTION 7. Arkansas Code § 22-9-204 is amended to read as follows:

22-9-204. Subcontractors exceeding ~~\$20,000~~ \$50,000 – Penalty.

(a) As a condition to performing construction work for and in the State of Arkansas, all prime contractors shall use no other subcontractors when the subcontractors' portion of the project is ~~twenty~~ fifty thousand dollars ~~(\$20,000)~~ (\$50,000) or more, except those licensed by the Contractors Licensing Board and qualified in:

(1) Mechanical, indicative of heating, air conditioning, ventilation, and refrigeration;

(2) Plumbing;

(3) Electrical; and

(4) Roofing.

(b)(1) In the event the prime contractor is qualified and licensed by the board, he or she may use his or her own forces to perform those tasks listed in this section as subcontractors in one (1) or more of the trades listed.

(2)(A) A subcontractor, including the situation stated in subdivision (b)(1) of this section, may subcontract a portion of the listed work.

(B) However, a subcontractor is prohibited from

subcontracting the work in its entirety.

(c)(1) When the prime contractor makes a definite decision regarding the subcontractors he or she intends to use, he or she shall place the name of each subcontractor in a blank space provided on the form of proposal of his or her bid.

(2) In the event that one (1) or more of the subcontractors named by the prime contractor in his or her successful bid thereafter refuses to perform his or her contract or offered contract, the prime contractor may substitute another subcontractor licensed by the board after having obtained prior approval from the architect or engineer and the owner. Additional approval must be obtained from the Arkansas Building Authority for capital improvement projects under its jurisdiction.

(d) The prime contractor shall submit written evidence that the substituted contractor is costing the same amount of money or less and, if costing less, that the savings will be deducted from the total contract of the prime contractor and rebated to the owner.

(e) It shall be mandatory that the mechanical, plumbing, electrical, and roofing subcontractors named on the form of proposal by the prime contractor awarded a contract under the provisions of this subchapter be given contracts by the prime contractor in keeping with their proposals to perform the items for which they were named.

(f)(1) It shall be a violation of this section for any prime contractor to submit a bid listing unlicensed contractors or to use unlicensed contractors on a public works project if the listed work of the unlicensed contractors or portion of the unlicensed contractors' work is ~~twenty~~ fifty thousand dollars ~~(\$20,000)~~ \$50,000 or more.

(2) It shall be a violation of this section for any subcontractor who is not licensed by the board to contract to perform work on a public works project if the listed work of the subcontractor or portion of the subcontractor's work is ~~twenty~~ fifty thousand dollars ~~(\$20,000)~~ (\$50,000) or more.

(3) The board has jurisdiction over violations of this subsection under § 17-25-103.

/s/Hester