



## **Board for Contractors**

### **PROPOSED** Guidance Document:

## **Board for Contractors Policies and Interpretations**

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### **I. Background**

The Board for Contractors is routinely asked by licensees, citizens, and other individuals to clarify or interpret the regulations and statutes that govern the licensing programs that come under its authority. These interpretations and policies that have been developed as a result of them are reviewed on an annual basis and are used in the processing of applications, investigation of complaints, and by other government agencies for the issuance of construction permits and licensing requirements. At its meeting of June 18, 2019, the Board for Contractors completed the annual review of its policies and interpretations and the following document was adopted.

### **II. Issue**

It would be nearly impossible for the Board for Contractors Regulations to be written to encompass every possible construction scenario, specialty, or situation. Changes to the Uniform Statewide Building Code (USBC), improved construction techniques, and unforeseen situations involving construction materials and procedures, result in a certain amount of fluidity in the regulations, necessitating a regular review of definitions, eligibility criteria, and requirements. Many of these changes are incorporated into the regulations as deemed appropriate by the Board. Additionally, the Board has determined that a regular review of these interpretations and procedures is necessary to ensure that the regulations are current and address the majority of situations that may be presented.

### **III. Board Guidance**

## **Virginia Board for Contractors Guidance Document**

**Effective Date: June 18, 2019**

**Board for Contractors Interpretations and Policies – the date in parenthesis is the date the interpretation/policy was adopted.**

### **§ 54.1-1100. Definitions.**

#### **Contractor**

(12/14) A licensed contractor may bid on work, or enter into a contract for work, which is outside the scope of his license classification(s) provided that he subcontracts that work, to properly licensed contractors, and the work of the subcontractors is incidental to the contract. A contractor may not bid on work where the primary scope of the contract is outside the definition of the specialties/classifications permitted for his license, even if there is incidental work contained within the bid or contract that is within the scope of his license.

### **§ 54.1-1101 Exemptions**

(6/19) “For own use” means that the person building or supervising the construction of a residential building must live in the residential building, and the person performing or supervising the improvement of an existing commercial building must operate their business in that building to be exempted, unless they can be exempted based on the familial relationship as outlined in § 54.1-1101.8. The Board stated that there should be no misunderstanding that a person who builds or supervises the building of a residential or commercial building with the intent to sell it must have a contractor’s license. The person building or supervising the building of a residential construction project must live in the residential building, and the person building or supervising the building of a commercial construction project must operate his business in that building.

### **§ 54.1-1141 Certification required; exemption.**

(9/07) Temporary construction elevators and hoists do not meet the criteria for requiring installation, maintenance and repair work as having to be completed by a licensed elevator contractor with certified elevator mechanics as these are temporary in nature and monitored by OSHA for onsite safety compliance.

## **18 VAC 50-22-10. Definitions**

### **Supervision**

- (12/05) The definition of “supervision” states that a licensed tradesman must “periodically” observe and evaluate the performance of helpers and laborers performing trade related tasks. That definition does not mean that a licensed tradesman is required to be on the job site at all times, but that the helpers and laborers be observed and evaluated periodically at a reasonable time frame for the qualifications of the person completing the work and the risk associated with the work being performed.

### **Routine Maintenance**

- (10/15) The definition of “routine maintenance” as used in the Board for Contractors Regulations means: “Recurring, preventative, and on-going activity necessary to delay or prevent the failure of a building, equipment, machinery, plant, or system, against normal wear and tear and is generally set by the manufacturer, the USBC, or by generally accepted practices within the industry.”

## **18 VAC 50-22-20. Definitions of license classifications.**

### **Commercial Building (CBC) and Residential Building (RBC)**

- (12/14) Pilings are included as foundation work that may be performed by contractors with the Commercial Building (CBC) or Residential Building (RBC) classifications.
- (12/14) A contractor with the Commercial Building (CBC) or Residential Building (RBC) classification may perform foundation work.
- (12/14) A contractor holding the Commercial Building (CBC) or Residential Building (RBC) classification may complete paving and concrete work which is incidental and adjacent to the structure being constructed i.e., sidewalks, walkways, and driveways).

### **Highway/Heavy Contractors (H/H)**

- (12/14) Contractors holding the Highway/Heavy classification may install, remove, or repair water and sewer lines from the street to the structure and may complete the plumbing connection. For sewer lines this would be to the house or building

clean-out and for water lines this would be to the stub out or connection point to the structure.

## **18 VAC 50-22-30. Definitions of specialty services.**

### **Billboard/Sign Contracting (BSC)**

(12/14) Contractors who erect billboards for their own use on another's property are exempt from licensing requirements.

### **Electronic/Communication Service Contracting (ESC)**

(7/93) Attaching telecommunications equipment to existing systems does not fall within the definition of contractor.

### **Elevator/Escalator Contracting (EEC)**

(9/07) Temporary construction elevators and hoists do not meeting the criteria for requiring installation, maintenance and repair work as having to be completed by a licensed elevator contractor with certified elevator mechanics as these are temporary in nature and monitored by OSHA for onsite safety compliance.

### **Home Improvement Contracting (HIC)**

(7/05) HIC contractors are not permitted to do framing work that is outside the footprint (horizontal and vertical) and boundaries of the original structure. They may not add roofing to decks, patios, or other portions of a structure that does not already have an existing roof.

(6/18) Utility out building is defined as a building less than 256 square feet, that is not attached to the main structure (this includes gazebos).

### **Landscape Service Contracting (LSC)**

(12/07) A landscape service contractor may install decorative fountains but must sub-contractor trade-related work to an appropriately licensed contractor. They may also construct steps that are part of a landscape project but not those that serve as ingress or egress to a structure.

- (12/14) General landscape services, such as mowing, trimming, placement of plant material, and tree removal, do not require license issued by the Board for Contractors.
- (7/16) A contractor holding the landscape services specialty may install fencing that is not required by statute or regulation (such as swimming pool barrier, fencing around hazardous material storage, etc.)
- (6/19) The construction, removal, repair, or improvement of residential retaining walls may be performed by a contractor holding the RBC or H/H classifications or the LSC specialty. The construction, removal, repair, or improvement of commercial retaining walls may be performed by a contractor holding the CBC or H/H specialty.

### **Manufactured Home Contracting (MHC)**

- (12/14) The cost of the manufactured home must be included in the contract when determining what Class of license is required by the contractor, unless the contractor separately delineates the cost of the manufactured home and the cost of the installation, in which case the Class of license of the contractor can be based solely on the cost of installation.

### **18 VAC 50-22-40. Requirements for a Class C license**

**None**

### **18 VAC 50-22-50. Requirements for a Class B license**

#### **E. Reporting of financial history**

- (4/94) The value of land used in the determination of net assets may be done with either the assessed tax value or the appraised value from a certified appraiser, and, in either case, the applicant must furnish documents to establish the chosen value.
- (7/16) If the assets of an applicant contain more than 25% undocumented value (accounts receivable, “other,” etc.) then the applicant must provide a \$50,000 surety bond, a CPA audited financial statement ***or*** not count more than 25% of that value when calculating the net worth.

- (6/19) Assets used to determine whether a Class B Contractor Business meets the \$15,000 net worth requirement must be in the name of the business entity applying for the license. If a CPA reviewed balance sheet is used to document the business' net worth, it must have been completed within twelve months of the date of application. There may be no jointly owned property or assets for Sole Proprietors.

## **18 VAC 50-22-60. Requirements for a Class A license**

### **E. Reporting of financial history**

- (4/94) The value of land used in the determination of net assets may be done with either the assessed tax value or the appraised value from a certified appraiser, and, in either case, the applicant must furnish documents to establish the chosen value.
- (4/98) Assets used to determine whether a Class A Contractor Business meets the \$45,000.00 net worth requirement must be in the name of the business entity applying for the license. If a CPA reviewed balance sheet is used to document the business' net worth, it must have been completed within twelve months of the date of application. There may be no jointly owned property or assets for Sole Proprietors.
- (7/16) If the assets of an applicant contain more than 25% undocumented value (accounts receivable, "other," etc.) then the applicant must provide a \$50,000 surety bond, a CPA audited financial statement or not count more than 25% of that value when calculating the net worth.
- (7/16) If the assets of an applicant contain more than 25% undocumented value (accounts receivable, "other", etc.) then the applicant must provide an audited financial statement or not count more than 25% of that value when calculating the net worth.

## **18 VAC 50-22-260. Filing of charges; prohibited acts.**

### **B. 8 Failure to use residential contract**

- (12/07) In situations involving houses built on speculation. If the house is purchased or if a contract to purchase the home is made prior to the issuance of the final certificate of occupancy, then the contractor must use a contract that contains all

of the provisions set forth in 18 VAC 50-22-260 B 9 of the regulations. If the house is purchased after a final certificate of occupancy is issued, then it becomes a real estate transaction and no residential construction contract is required.

## **B.9 Contract Elements**

- (6/18) A contractor may use electronic documents, electronic signatures, and electronic authorizations (as set forth in the Uniform Electronic Transaction Act - § 59.1-480 et seq. of the Code of Virginia) provided that the intended use of the electronic documents is outlined in the contract.

## **Service Contracts**

- (4/16) “Work done that is included in a service contract shall not require an additional contract and will be considered to have met the requirements of the regulations. Work that is not included in the service contract must meet the contract requirements set forth in the regulations. Additionally, repair or replacement work, above the diagnostic service or work done to stabilize an emergency condition, must also meet the contract requirements.”

## **18 VAC 50-30-10. Definitions.**

### **Incidental**

- (12/14) Gas fitting is not incidental and must be done by a licensed gas fitter.

## **18 VAC 50-30-40. Evidence of ability and proficiency.**

- (10/07) Certified trade-related building inspectors may count a single year of full time inspection experience, and the related training, as fulfilling the 240 hour education requirement for licensure set forth in 18VAC50-30-40 of the regulations, but that inspection experience does not meet the definition of practical experience in that same section.
- (3/09) Individuals licensed as elevator mechanics in Florida and Georgia other than by reciprocity may qualify by substantial equivalency to take the Virginia’s Elevator Mechanics examination.

## **18 VAC 50-30-120. Renewal. (individual licenses/certifications)**

(10/07) Approved instructors of required education courses may receive credit for courses they teach.

## **General Policies**

(3/05) A Master or Journeyman Tradesmen, whose license is past reinstatement, must meet all current entry requirements, including passing the examination.

(3/05) The license expiration date for a Master Tradesman who upgrades from a Journeyman Tradesman license in the same trade, and who is only licensed in that one trade, shall occur on the last day of the month two years after the date the Master Tradesman license is issued by the Board.

(9/05) The business name of a licensed contractor cannot reflect work that the contractor is not licensed to perform.

(3/06) A Home Improvement Contracting (HIC) specialty license is needed to install an unvented gas prefabricated fireplace. An HVAC contracting or tradesman license is needed to install or modify a venting system. A contractor licensed to perform masonry work is authorized to install brick, concrete, block, stone, marble, slate or other types of masonry chimneys.

(6/07) **General Complaint Processing** - In order to more efficiently utilize agency and board resources, any pending or future complaints received on licensees whose license has been revoked, shall be closed administratively.

(8/09) The Board will not provide extensions to the due dates of provisions of Final and Consent Orders.

(12/09) Tradesman examination approvals are valid for one year. Extensions will not be granted.

(1/11) All Qualified Individuals of Sewage Disposal System Contractors are required to hold the individual license issued by the Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals.



- (1/12) The Board includes pilings as foundation work that may be performed by contractors with the Commercial Building (CBC) or Residential Building (RBC) classifications.
- (10/12) Contractors with the Highway/Heavy, HVAC and Plumbing classification may install/drill horizontal geothermal trenches and piping 10 feet below grade that is associated with horizontal loop geothermal system.
- (12/14) Contractors holding the CBC, RBC or HVAC classifications or the HIC or CIC specialties may install factory engineered fireplaces, fireplace inserts, or wood stoves. Venting for any of these or similar appliances must be completed by a contractor holding the HVAC classification.
- (12/14) Contractors holding the HIC, CIC, or BRK specialties may construct, remove, or repair masonry chimneys.
- (12/14) Tradesmen are permitted to perform work that is within the scope of the applicable section of the USBC for their trade. Work experience used by applicants for tradesman licenses must be for work that is within the scope of the applicable section of the USBC for their trade.
- (10/15) Effective immediately, or at such time as the EAGLES licensing system can be modified to facilitate the change, all Qualified Individuals that, as part of an application, are required to complete a technical examination, must be approved by the Board for Contractors to sit for that examination. As part of the application process the Qualified Individual candidate will provide documentation of experience in the specialty in which they will serve as the Qualified Individual.
- (7/16) In order for an applicant to qualify for an “umbrella” specialty (HIC or CIC) then they must have experience in at least three of the “breakout” specialties. For example, an applicant with experience in flooring, painting, and roofing, would be eligible for the applicable improvement specialty. However, an applicant with only flooring and painting experience, would be required to hold both the PTC and FLR specialties. The “breakout” specialties are: DRY, FIN, FLR, GLZ, INS, BRK, PTC, ROC, TMC, and FRM.
- (4/18) In lieu of having their application reviewed by the Board for Contractors in accordance with the provisions of the APA, an applicant with an adverse financial history, may provide a \$50,000 surety bond with the Board, using the bonding

form and procedures that are currently in use as outlined in § 54.1-1106 and § 54.1-1108 of the Code of Virginia.

- (6/19) Examination candidates are allowed to use a language glossary for word-to-word translations during the examination however, foreign language interpreters are not allowed at examination sites.
- (6/19) Contractors that install residential emergency generators must hold a license with the Electrical Contractor (ELE) license classification. The installation of commercial generators may be completed by contractors holding a license with the CBC license classification or CIC license specialty, with the exception that all trade-related work must be completed by a properly licensed contractor with the applicable trade-related classification or specialty.

### **Tradesman Apprenticeship Exam Exemption**

- (06/13) The Board added clarification to the journeyman exam exemption in 18 VAC 50-30-50 B 1 for applicants that successfully complete an apprenticeship program which is approved by the Virginia Apprenticeship Council. The exemption is limited to being used twice, once upon initial application, and once again the first time an individual allowed his license to lapse. After the second use, the individual would be required to complete the examination requirements.

### **Subsequent Examination Requests**

- (07/15) Individuals are prohibited from registering for or taking an examination that they have already successfully completed, when there is no requirement for the individual to complete the examination a subsequent time.

### **General Definitions**

#### **“Change Order” (3/06)**

Any modification in the original contract including, but not limited to: 1) Time to complete the job; 2) Change in materials; 3) Change in cost; or, 4) Change in the scope of work. The Change Order must be signed by all contracting parties.

#### **“New Construction” (7/97)**

Any construction activity that occurs outside the original building perimeter shall be designated as “NEW” construction.

“Practical Experience in a Trade” (3/05)

Activity regulated by the USBC and applicable referenced model code.

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*The Board for Contractors will be taking public comment on this proposed guidance document regarding its interpretations and policies. A 30-day comment period will begin on August 19, 2019.*

*If you wish to comment on the proposed guidance document, you may do so via the Town Hall website or you may submit written comments so that they are received no later than September 18, 2019 to:*

*Marjorie King, Regulatory Boards Administrator  
Department of Professional and Occupational Regulation  
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