

CHAPTER 82

(HB 385)

AN ACT relating to the Board of Housing, Buildings and Construction.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 198B.020 is amended to read as follows:

- (1) There is created the Kentucky Board of Housing, Buildings and Construction within the Kentucky Office of Housing, Buildings and Construction comprised of ***twenty-one (21)***~~twenty (20)~~ members to include: the executive director of the office, one (1) local government fire chief selected by the Governor from a list of three (3) submitted by the Kentucky Firemen's Association; the executive director of the Kentucky Housing Corporation; the commissioner of the Department for Public Health, Cabinet for Health and Family Services; the Attorney General or any assistant attorney general he or she may designate to represent the interests of consumers; one (1) professional homebuilder selected by the Governor from a list of three (3) submitted by the Home Builders Association of Kentucky; one (1) registered architect selected by the Governor from a list of three (3) submitted by the Kentucky Society of Architects; one (1) registered structural engineer selected by the Governor from a list of three (3) submitted by the Kentucky Society of Professional Engineers; one (1) registered mechanical engineer selected by the Governor from a list of three (3) submitted by the Kentucky Society of Professional Engineers; one (1) registered electrical engineer selected by the Governor from a list of three (3) submitted by the Kentucky Society of Professional Engineers; one (1) citizen member selected by the Governor to represent the interests of low and moderate-income housing consumers within the Commonwealth of Kentucky; one (1) citizen member at large; one (1) practicing general contractor selected by the Governor from a list of three (3) submitted by the Kentucky Association of General Contractors; one (1) practicing code administrator selected by the Governor from a list of three (3) submitted by the Codes Administrators Association of Kentucky; one (1) realtor selected by the Governor from a list of three (3) submitted by the Kentucky Association of Realtors; one (1) member selected by the Governor from a list of three (3) submitted by the Kentucky State Building Trades Council; one (1) member selected by the Governor from a list of three (3) submitted by the Kentucky Association of Plumbing, Heating and Cooling Contractors; one (1) member selected by the Governor from a list of three (3) submitted by the Mechanical Contractors Association; one (1) electrical contractor member selected by the Governor from a list of three (3) submitted by the National Electrical Contractors Association;~~and~~ one (1) retailer member selected by the Governor from a list of three (3) submitted by the Kentucky Retail Federation; ***and one (1) member selected by the Governor from a list of three (3) submitted by the Kentucky Building Materials Association.***
- (2) Except for the executive director of the office, the commissioner of the Department for Public Health, the executive director of the Kentucky Housing Corporation, and the Attorney General or his or her designee, who shall serve on the board during the term of their existing office and shall be voting members, board members shall be appointed for four (4) year terms, except that initially four (4) shall be appointed for two (2) year terms, four (4) shall be appointed for three (3) year terms, and six (6) shall be appointed for four (4) year terms. No board member shall be appointed for more than one (1) successive term except as provided in subsection (3) of this section. The Governor shall, within the limitations of this subsection, set the length of term of each of the initial appointees to the board.
- (3) Vacancies occurring on the board among those members appointed by the Governor shall be filled by seeking nominations as in subsection (1) of this section from the organization which originally nominated the member who is to be replaced. A replacement for a board member shall be appointed immediately upon the expiration of the departing board member's term of service. Should a board member vacate his or her position on the board prior to the expiration of the member's term, a replacement member shall be appointed for the period of the unexpired term. Should the unexpired term be less than two (2) years, the person selected to fill the unexpired term may subsequently be appointed to one (1) successive four (4) year term.
- (4) Members may be removed from the board by the Governor for unethical conduct or for failure to attend three (3) or more successive meetings of the board without reasonable cause.
- (5) The board shall meet at least quarterly, and the first meeting shall occur no later than August 31, 1978. Before assuming their duties, members of the board shall take an oath as specified in Section 228 of the Constitution of Kentucky.

- (6) The executive director of the office shall serve as chairman of the board. The board may elect from its members other officers as are required to conduct its business, except that neither the commissioner of the Department for Public Health, the executive director of the Kentucky Housing Corporation, nor the Attorney General or his or her designee shall be elected to office on the board.
- (7) The board may adopt such rules, regulations, and bylaws as are necessary to conduct its internal business. Any administrative regulations promulgated by the board for any purpose other than internal business shall be subject to the requirements of KRS 198B.040(11).
- (8) No member of the board may vote on any matter which will result in his or her direct or indirect financial gain.
- (9) Those members of the board who are not salaried governmental employees shall be compensated for their time when attending board meetings or attending to official duties as directed by the board at the rate of fifty dollars (\$50) per day. All board members shall be compensated for expenses incurred in the conduct of board business.

➔Section 2. KRS 198B.560 is amended to read as follows:

- (1) Except as provided in subsection (2) of this section, no person unless supervised by a certificate holder shall engage in the preparation of technical drawings, installation, repair, alteration, extension, maintenance or inspection of a fire protection sprinkler system or use any title, sign, card or device indicating, or intending to indicate, or represent in any manner that he is a certified fire protection sprinkler contractor without first obtaining the fire protection sprinkler contractor's license *or certificate* under the provisions of KRS **198B.570 or 198B.580**; it being the purpose of KRS 198B.550 to 198B.630 to safeguard life, health, property, and welfare of the public.
- (2) KRS 198B.550 to 198B.630 shall not apply to state or local building officials, fire marshals, fire inspectors, or insurance inspectors when acting in their official capacities.
- (3) This chapter shall not apply to professional engineers in the preparation of plans or construction inspection pursuant to KRS Chapter 322.
- (4) This chapter shall not apply to limited area sprinkler systems served by a domestic water supply consisting of ten (10) sprinkler heads or less in one (1) structure.

➔Section 3. KRS 198B.610 is amended to read as follows:

- (1) If a licensed fire protection sprinkler contractor desires to do business in any part of the state, he shall be required by KRS 198B.560 and 198B.565 to deliver to the local building official a copy of his fire protection sprinkler contractor's license. The local building official shall require a copy of the license before issuing a license or building license and no local official shall impose any other competency requirements on the licensed fire protection sprinkler contractor.
- (2) Nothing in KRS 198B.560 and 198B.565 limits the power of a city, urban-county, county or state to regulate the quality and character of work performed by contractors, through a system of permits, fees and inspections which are designed to assure compliance with, and aid in the implementation of state and local building laws or to enforce other local laws for the protection of the public health and safety. Nothing in KRS 198B.560 and 198B.565 limits the power of a city, urban-county, county or the state to adopt any system of permits requiring submission to and approval by the city, urban-county, county or the state of plans and specifications for work to be performed by contractors before commencement of the work. The official authorized to issue building or other related permits shall ascertain that the fire protection sprinkler contractor is duly licensed by requiring evidence of a valid fire protection sprinkler contractor's license *as a prerequisite to that contractor beginning design, installation, repair, alteration, extension, maintenance, or inspection of fire protection sprinkler systems*.
- (3) KRS 198B.560 and 198B.565 apply to any fire protection sprinkler contractor performing work for any city, urban-county, special district, county, or the state. Officials of any city, urban-county, special district, county or the state are required to determine compliance with KRS 198B.560 and 198B.565 before awarding any contracts for the installation, repair, alteration, addition, or inspection of a fire protection sprinkler system. Bids for such work shall be accompanied by a copy of a valid fire protection sprinkler contractor's license.

➔Section 4. KRS 198B.620 is amended to read as follows:

- (1) Subject to a hearing conducted in accordance with KRS Chapter 13B, the executive director may refuse to renew or may suspend or revoke the license of a licensed fire protection sprinkler contractor or the certificate of a certificate holder to engage in the business of fire protection sprinkler systems or in lieu thereof establish an administrative fine not to exceed **two thousand dollars (\$2,000)** ~~five hundred dollars (\$500)~~ for any of the following reasons:
- (a) Gross incompetency or gross negligence in the installation, repair, alteration, maintenance, inspection, or addition to fire protection sprinkler systems, as determined by the executive director;
 - (b) Conviction of a felony;
 - (c) Fraudulent or dishonest practices while engaging in the business of fire protection sprinkler systems;
 - (d) Use of false evidence or misrepresentation in an application for a license or certificate;
 - (e) Signing or affixing his or her seal to any plans, prints, specifications or reports, which have not been prepared by him or her personally or under his or her immediate supervision, or in violation of KRS 198B.585;
 - (f) Knowingly violating any provisions of KRS 198B.550 to 198B.630 or the regulations issued thereunder.
- (2) The executive director shall revoke, subject to a hearing in accordance with KRS Chapter 13B, the license of a licensed fire protection sprinkler contractor or a certificate holder who engages in the fire protection sprinkler system business while his or her or its license is suspended.
- (3) ***Any person who engages in the drawings, installation, repair, alteration, extension, maintenance, or inspection of fire protection sprinkler systems or uses any title, sign, card, or device indicating or intending to indicate that he or she is a certified fire sprinkler contractor without having first obtained the requisite license or certificate shall be guilty of a Class A misdemeanor. Each violation shall be regarded as a separate offense.***
- (4) Any license or certificate holder who is aggrieved by a final order of the executive director suspending or revoking a license may appeal to the Franklin Circuit Court or the Circuit Court of the county of the license or certificate holder's place of business in accordance with KRS Chapter 13B.

➔Section 5. KRS 198B.625 is amended to read as follows:

- (1) Whenever, in the judgment of the executive director, any person has engaged, or is about to engage, in any acts or practices that constitute, or will constitute a violation of the provisions of KRS 198B.560 and 198B.565, the executive director may inform the Attorney General, who may make application to the ~~Franklin~~ Circuit Court ***of the county where the violation occurred*** for an order enjoining such acts or practices.
- (2) ***If a person is practicing without the requisite license or certificate required under KRS 198B.560 and 198B.565, the executive director shall inform the Attorney General of the unlawful practice within seven (7) days of receiving notice of its occurrence. The Attorney General may apply to the Circuit Court of the county where the violation occurred for an order enjoining the acts or practices.***
- (3) Additionally, the executive director may issue a cease and desist order, the violation of which shall be cause for ***the imposition of an administrative fine***, suspension, or revocation as provided for in KRS 198B.620. Upon showing via the executive director that such person has engaged, or is about to engage, in any such acts or practices, an injunction or restraining order, or such other order as may be appropriate, shall be granted by ***the Circuit*** ~~such~~ Court. Any order of the ~~Franklin~~ Circuit Court ***of the county where the violation occurred*** shall be enforceable and shall be valid anywhere in this Commonwealth and the order of ***that*** ~~either~~ court shall be reviewable as provided for in the Rules of Civil Procedure, in the case of other injunctions and restraining orders.

➔Section 6. KRS 198B.550 is amended to read as follows:

As used in KRS 198B.555 to 198B.630, unless the context requires otherwise:

- (1) "Office" means the Office of Housing, Buildings and Construction.
- (2) "Executive director" means the executive director of the office.

- (3) A "fire protection sprinkler contractor" is a person engaged in the preparation of technical drawings, installation, repair, alteration, extension, maintenance or inspection of fire protection sprinkler systems and has in his or her employment a certificate holder.
- (4) A "fire protection sprinkler contractor's license" is the license issued by the executive director to a fire protection sprinkler contractor upon application being approved, fee paid and the satisfactory completion of the requirements of KRS 198B.580. The license shall be issued in the name of the fire protection sprinkler contractor with the name or names of the certificate holder noted thereon.
- (5) A "certificate holder" is an individual who has satisfactorily met and has received a certificate from the executive director under the provisions of KRS 198B.570 ~~or 198B.575~~.
- (6) A "fire protection sprinkler system" is a system of piping for which technical drawings have been prepared by or preparation supervised by a certificate holder in accordance with fire protection engineering standards. The system is supplied from a reliable, constant, and sufficient water, gas, or chemical supply, such as a gravity tank, fire pump, reservoir, or pressure tank, or connection by underground piping to a city, county, municipal water district, authorized water main, or both. The sprinkler system is considered the fire protection sprinkler system for purposes of KRS 198B.550 to 198B.630, and is a network of specially sized or hydraulically designed piping installed overhead and underground in a building, structure, or area, and to which sprinklers are connected in systematic pattern. The system includes a controlling valve and a device for actuating an alarm when a system is in operation. The system is usually activated by heat from a fire and causes the discharge of water, gas, or chemical over the fire area. Fire protection sprinkler systems shall include the following types: wet-pipe systems, dry-pipe systems, pre-action systems, deluge systems, combined dry-pipe and pre-action systems, antifreeze systems and circulating closed loop systems, systems utilizing gasses or chemicals, and any other fire suppression system approved by the state fire marshal or the chief building code official of the office.

➔Section 7. KRS 198B.570 is amended to read as follows:

To become a certificate holder under KRS 198B.560, an applicant must satisfactorily pass a current examination prescribed and administered by the National Institute for Certification in Engineering Technologies entitled Fire Protection Engineering Technology Automatic Sprinkler System Design Level III, or the equivalent thereof, approved by the executive director~~, except as otherwise provided in KRS 198B.575~~.

➔Section 8. KRS 198B.605 is amended to read as follows:

- (1) (a) All certificates issued under KRS 198B.570 ~~and 198B.575~~ shall expire on the last day of the certificate holder's birth month in the following year. The office may reduce the license fee on a pro rata basis for initial certificates issued for less than twelve (12) months. Renewed certificates shall expire on the last day of the certificate holder's birth month of each year after the date of issuance of the renewed certificate. Application for a renewal shall be upon such form as is prescribed by the executive director and the certificate holder shall furnish the information required by such form.
- (b) Failure of any certificate holder to secure his or her renewal certificate within sixty (60) days after the last day of the certificate holder's birth month shall constitute sufficient cause for the executive director to revoke his or her license.
- (c) The executive director may restore a certificate that has been revoked for failure to pay the renewal fee, upon the receipt of payment of all delinquent fees.
- (2) A certificate holder may voluntarily surrender his or her certificate to the executive director and thereby be relieved of the annual renewal fee. After surrendering of certificate, he or she shall not be known as a certificate holder and shall desist from the practice thereof. Within five (5) years from the time of surrender of the certificate, he or she may again qualify for a certificate without examination by the payment of the required fee. If five (5) years thereafter have lapsed, he or she shall return to the status of a new applicant.
- (3) (a) The initial license for a fire protection sprinkler contractor shall expire on the last day of the licensee's birth month in the following year. The office may reduce the license fee on a pro rata basis for initial licenses issued for less than twelve (12) months. Renewed licenses shall expire on the last day of the licensee's birth month of each year after the date of issuance of the renewed license. Application for a renewal shall be upon such form as is prescribed by the executive director and license holder shall furnish the information required by such form.

- (b) Failure of any certificate holder to secure his renewal certificate within sixty (60) days after the last day of the certificate holder's birth month shall constitute sufficient cause for the executive director to revoke his or her license.
- (c) The executive director may restore a license that has been revoked for failure to pay the renewal fee, upon the receipt of payment of all delinquent fees.

➔Section 9. The following KRS section is repealed:

198B.575 Affidavits in lieu of examination.

Signed by Governor April 11, 2008.