~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

May 19, 2016

**S. 280**

Introduced by Senator Peeler

S. Printed 5/19/16--H. [SEC 5/20/16 1:38 PM]

Read the first time March 16, 2016.

**THE COMMITTEE ON**

**LABOR, COMMERCE AND INDUSTRY**

To whom was referred a Bill (S. 280) to amend Section 40-11-260, Code of Laws of South Carolina, 1976, relating to financial statements and net worth requirements for general contractors and mechanical contractors, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by adding an appropriately numbered penultimate SECTION to read:

/ SECTION \_\_\_. Section 40‑11‑360(A) of the 1976 Code is amended to read:

“(A) This chapter does not apply to:

(1) An entity which installs fire sprinkler systems if the entity is licensed under Chapter 45 of Title 23, or burglar and fire alarm systems if the entity is licensed under Chapter 79 of Title 40~~;~~.

(2) The installation of finished products, materials, or articles of merchandise that are not fabricated into and do not become a permanent fixed part of the structure. Work requiring licensure must be installed by a licensed contractor~~;~~.

(3) Construction, alteration, improvement, or repair carried on within the limits of a site, the title to which is in the name United States of America or with respect to which federal law supersedes this chapter~~;~~.

(4) Contractors performing construction work for the South Carolina Department of Transportation pursuant to that department’s prequalification requirements with the exception of public/private partnerships performing work pursuant to Section 57‑3‑200~~;~~.

(5) An owner of residential property who improves the property or who builds or improves structures or appurtenances on the property if he does the work himself, with his own employees, or with licensed contractors; provided that the structure, group of structures, or appurtenances, including the improvements, are intended for the owner’s sole occupancy or occupancy by the owner’s family and are not intended for sale or rent, and provided further, that the general public does not have access to this structure. In an action brought under this chapter, proof of the sale or rent or the offering for sale or rent of the structure by the owner‑builder within two years after completion or issuance of a certificate of occupancy is prima facie evidence that the project was undertaken for the purpose of sale or rent and is subject to the penalties provided in this chapter. As used in this item, “sale” or “rent” includes an arrangement by which an owner receives compensation in money, provisions, chattel, or labor from the occupancy, or the transfer of the property or the structures on the property~~;~~.

(6) An owner of nonowner‑occupied property who improves the property or who builds or improves structures of less than five thousand square feet or other appurtenances on the property, either by himself or with the owner’s employees, if all structural and mechanical work is performed by licensed contractors regardless of the cost of construction and if the property is not sold for two years after completion of the improvements. For purposes of this item, ‘structural’ means foundation, pier, load‑bearing partition, perimeter wall, internal wall exceeding ten feet in height, roof, floor, and any other work deemed by the board to be structural. ‘Mechanical’ means work described in Section 40‑11‑410(5)~~;~~.

(7) An owner constructing a farm building or portable storage building with less than five thousand square feet of floor space and used only for livestock or storage~~;~~.

(8) Public owners performing all or a portion of any work on a project themselves as long as the work performed falls within the limitations of a License Group 3 General Contractor or a License Group 4 Mechanical Contractor, as adjusted by an inflation factor reflecting the Department of Labor’s Consumer Price Index.

(9) Renovations and maintenance projects of the South Carolina Department of Corrections whereby all labor is supplied from that department’s own labor forces.

(10) The South Carolina Public Service Authority when performing maintenance and renovations to existing facilities and when performing work in accordance with Section 40‑11‑410(4)(n).

(11) The installation, repair, or maintenance of signs of billboards; provided, however, an electrical license is required to perform a final connection to a branch circuit conductor. The installation or modification of a branch circuit conductor is not considered a part of the installation, repair, or maintenance of a sign or billboard.” /

Renumber sections to conform.

Amend title to conform.

WILLIAM E. SANDIFER III for Committee.

**A** **BILL**

TO AMEND SECTION 40‑11‑260, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO FINANCIAL STATEMENTS AND NET WORTH REQUIREMENTS FOR GENERAL CONTRACTORS AND MECHANICAL CONTRACTORS, SO AS TO ADJUST THE NET WORTH REQUIREMENTS FOR LICENSURE AND LICENSE RENEWAL, AND TO DELETE OBSOLETE LANGUAGE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 40‑11‑260 of the 1976 Code is amended to read:

“Section 40‑11‑260. (A) An applicant for a general contractor’s license or a general contractor’s license renewal who performs or offers to perform contracting work for which the total cost of construction is greater than ~~$5,000.00~~ five thousand dollars, and an applicant for license group revisions must provide an acceptable financial statement with a balance sheet date no more than twelve months before the date of the relevant application showing a minimum net worth for each license group as follows:

(1) Group One

(a) bids and jobs not to exceed ~~$30,000.00~~ $50,000.00 per job;

(b) required net worth of ~~$6,000.00~~ $10,000.00;

(c) on initial application, an owner‑prepared financial statement with an affidavit of accuracy;

(d) on renewal, an owner‑prepared financial statement with an affidavit of accuracy;

(2) Group Two

(a) bids and jobs not to exceed ~~$100,000.00~~ $200,000.00 per job;

(b) required net worth of ~~$20,000.00~~ $40,000.00;

(c) on initial application, an owner‑prepared financial statement with an affidavit of accuracy;

(d) on renewal, an owner‑prepared financial statement with an affidavit of accuracy;

(3) Group Three

(a) bids and jobs not to exceed ~~$350,000.00~~ $500,000.00 per job;

(b) required net worth of $100,000.00;

~~(b)~~(c) on initial application, a financial statement compiled by a licensed certified public accountant or a licensed public accountant in accordance with Generally Accepted Accounting Principles (GAAP), including all disclosures required by GAAP indicating a required net worth of ~~seventy~~ one hundred thousand dollars;

~~(c)~~(d) on renewal, an owner‑prepared financial statement with an affidavit of accuracy indicating a required net worth of ~~seventy~~ one hundred thousand dollars, or a financial statement compiled by a licensed certified public accountant or a licensed public accountant in accordance with GAAP, including all disclosures required by GAAP, and indicating a required net worth of ~~seventy~~ one hundred thousand dollars;

(4) Group Four

(a) bids and jobs not to exceed ~~$750,000.00~~ $1,500,000.00 per job;

(b) required net worth of $175,000.00;

~~(b)~~(c) on initial application, a financial statement compiled by a licensed certified public accountant or a licensed public accountant in accordance with GAAP, including all disclosures required by GAAP indicating a required net worth of ~~one hundred fifty~~ one hundred seventy-five thousand dollars;

~~(c)~~(d) on renewal, an owner‑prepared financial statement with an affidavit of accuracy indicating a required net worth of ~~one hundred fifty~~ one hundred seventy-five thousand dollars, or a financial statement compiled by a licensed certified public accountant or a licensed public accountant in accordance with GAAP, including all disclosures required by GAAP, and indicating a required net worth of ~~one hundred fifty~~ one hundred seventy-five thousand dollars;

(5) Group Five

(a) bids and jobs unlimited;

(b) required net worth of $250,000.00;

(c) on initial application, a financial statement audited by a licensed certified public accountant or a licensed public accountant in accordance with GAAP, including all disclosures required by GAAP;

(d) on renewal, a financial statement reviewed by a licensed certified public accountant or a licensed public accountant in accordance with GAAP, including all disclosures required by GAAP~~;~~.

(B) An applicant for a mechanical contractor’s license or a mechanical contractor’s license renewal who performs or offers to perform contracting work for which the total cost of construction is greater than five thousand dollars, and an applicant for license group revisions must provide an acceptable financial statement with a balance sheet date no more than twelve months before the date of the relevant application showing a minimum net worth for each license group as follows:

(1) Group One

(a) bids and jobs not to exceed $17,500.00 per job;

(b) required net worth of $3,500.00;

(c) on initial application, an owner‑prepared financial statement with an affidavit of accuracy;

(d) on renewal, an owner‑prepared financial statement with an affidavit of accuracy;

(2) Group Two

(a) bids and jobs not to exceed ~~$30,000.00~~ $50,000.00 per job;

(b) required net worth of ~~$6,000.00~~ $10,000.00;

(c) on initial application, an owner‑prepared financial statement with an affidavit of accuracy;

(d) on renewal, an owner‑prepared financial statement with an affidavit of accuracy;

(3) Group Three

(a) bids and jobs not to exceed ~~$50,000.00~~ $100,000.00 per job;

(b) required net worth of $20,000.00;

~~(b)~~(c) on initial application, a financial statement compiled by a licensed certified public accountant or a licensed public accountant in accordance with Generally Accepted Accounting Principles (GAAP), including all disclosures required by GAAP indicating a net worth of ~~ten~~ twenty thousand dollars;

~~(c)~~(d) on renewal, an owner‑prepared financial statement with an affidavit of accuracy indicating a required net worth of ~~ten~~ twenty thousand dollars, or a financial statement compiled by a licensed certified public accountant or a licensed public accountant in accordance with GAAP, including all disclosures required by GAAP, and indicating a required net worth of ~~ten~~ twenty thousand dollars;

(4) Group Four

(a) bids and jobs not to exceed ~~$125,000.00~~ $200,000.00 per job;

(b) required net worth of $40,000.00;

~~(b)~~(c) on initial application, a financial statement compiled by a licensed certified public accountant or a licensed public accountant in accordance with GAAP, including all disclosures required by GAAP indicating a net worth of ~~twenty‑five~~ forty thousand dollars;

~~(c)~~(d) on renewal, an owner‑prepared financial statement with an affidavit of accuracy indicating a required net worth of ~~twenty‑five~~ forty thousand dollars, or a financial statement compiled by a licensed certified public accountant or a licensed public accountant in accordance with GAAP, including all disclosures required by GAAP, and indicating a required net worth of ~~twenty-five~~ forty thousand dollars;

(5) Group Five

(a) bids and jobs unlimited;

(b) required net worth of ~~$100,000.00~~ $200,000.00;

(c) on initial application, a financial statement audited by a licensed certified public accountant or a licensed public accountant in accordance with GAAP, including all disclosures required by GAAP;

(d) on renewal, a financial statement reviewed by a licensed certified public accountant or a licensed public accountant in accordance with GAAP, including all disclosures required by GAAP~~;~~.

(C) In reviewing an entity’s balance sheet to determine the net worth of the applicant or licensee, the board may consider:

(1) deviations from the standard accountant’s report;

(2) notes to the financial statement;

(3) additional financial information submitted by the applicant or licensee for renewals;

(4) personal financial statements of an entity’s principals for an entity with less than two year’s operating experience.

(D) If a licensee desires to change to a higher license group as established in this section, the licensee must meet the financial statement and net worth requirements in the higher license group number as required in initial application.

(E) If the board has reasonable cause to believe that an entity has not maintained the minimum net worth for its group, the board may order the entity to submit additional financial information, and, if appropriate, may modify the entity’s license to reflect the appropriate limitation group.

~~(F)~~ ~~Contractors licensed before April 1, 1999, must be licensed in the new group closest to their existing limitations until their license renewal date, at which time they must meet the financial requirements for license renewal set forth in this section.~~”

SECTION 2. This act takes effect upon approval by the Governor.

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