Indicates Matter Stricken

Indicates New Matter

Committee Report

May 02, 2024

H. 4086

Introduced by Reps. Sandifer, Nutt, Chapman and M.M. Smith

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Read the first time May 09, 2023

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The committee on Senate Labor, Commerce and Industry

To whom was referred a Bill (H. 4086) to amend the South Carolina Code of Laws by adding Section 40‑59‑35 so as to provide that the work of certain licensees of the Residential Builders Commission that, 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, SECTION 1, by striking Section 40-59-10(A) and inserting:

(A) There is created the South Carolina Residential Builders Commission which must be composed of eight persons who have been residents of the State for at least five years and two of whom must be consumers not engaged in the business of residential building, four five of whom have been actively engaged in residential building for a period of at least five years before the date of their appointment, and who must be recommended to the Governor by the South Carolina Home Builders Association of South Carolina, and one of whom has been actively engaged in residential specialty trade contracting for a period of at least five years before the date of appointment. One member must be appointed from each congressional district, and one must be appointed from the State at large. Members of the commission must be appointed by the Governor with the advice and consent of the Senate for a term of four years or until their successors are appointed and qualify. A vacancy occurring by reason of death, resignation, removal for cause, or otherwise must be filled for the remainder of the unexpired term in the manner of the original appointment. The Governor may remove any member of the commission in accordance with Section 1‑3‑240.

Amend the bill further, SECTION 2, by striking Section 40-59-20(6) and inserting:

(6) “Residential builder” means one who constructs, superintends, or offers to construct or superintend the construction, repair, improvement, or reimprovement of a residential one- or two-family dwelling meeting the scope of the adopted S.C. Residential Building Code or structures classified as Residential Group R-3 structures building or structure as outlined by the S.C. Building Code, or a new multifamily apartment building classified by the S.C. Building Code as Residential Group R-2 occupancies which is not over three floors in height and which does not have more than sixteen units in any single apartment building, when the cost of the undertaking exceeds five thousand dollars. This includes:

(a) townhomes;

(b) detached garages and other accessory structures that are not more than three stories above grade plane in height and are situated upon land that is zoned for residential construction, excluding structures regulated by the Modular Buildings Construction Act;

(c) construction of a residential builder’s own model home to the same applicable code requirements as other one‑family dwelling units and two‑family dwelling units.

Amend the bill further, SECTION 2, Section 40-59-20(6), by striking the first undesignated paragraph after item (6)(d) and inserting:

A licensed residential builder may use unlicensed or unregistered workers for one- and two-family dwelling units including unlicensed or unregistered subcontractors within the limitations of the residential builder’s license; provided, the licensee provides supervision to all unlicensed and unregistered workers and subcontractors. The licensee is fully responsible for any violations of this chapter resulting from the actions of unlicensed or unregistered subcontractors performing work for the licensee. Anyone who engages or offers to engage in such undertaking in this State is considered to have engaged in the business of residential building.

Amend the bill further, SECTION 2, by striking Section 40-59-20(7) and inserting:

(7) “Residential specialty trade contractor" means an independent contractor who contracts with a licensed residential builder, licensed general contractor, or individual property owner to do construction work, repairs, improvement, or reimprovement which requires special skills and involves the use of specialized construction trades or craft that are tested for licensure, when the undertakings exceed five hundred dollars and are not regulated by the provisions of Chapter 11. A residential specialty trade contractor is not authorized to construct additions to residential buildings or structures without supervision by a residential builder or other appropriately licensed person or entity. A licensed residential trade contractor may use unlicensed workers for all areas of which they are tested for licensure; provided, the licensee provides supervision to all unlicensed workers and subcontractors. The licensee is fully responsible for any violations of this chapter resulting from the actions of unlicensed subcontractors performing work for the licensee. Residential specialty trade contracting includes the following areas of contracting and other areas as the commission may recognize by regulation:

(a) plumbers;

(b) electricians;

(c) heating and air conditioning installers and repairers;

(d) vinyl and aluminum sidingsolar panel installers;

(e) insulation installers;

(f) roofers;

(g) floor covering installers;

(h) masons;

(i) dry wall installers;

(j) carpenters;

(k) stucco installers;

(l) painters and wall paperers;

(m) solar panel installers.

(e) foundation repair and service specialists; and

(f) swimming pool installers, which include the:

(i) construction, service, and repair of all residential swimming pools and spas (including concrete, gunite, plastic, vinyl‑lined, and fiberglass pools and spas), pool decks, walkways, tiling, and coping; and

(ii) installation of all equipment, including pumps, filters, and chemical feeders, water and gas service lines from the point of service to the pool equipment, wiring from the pool equipment to the first readily accessible disconnect, pool piping, fittings, backflow prevention devices, waste lines, and other integral parts of a swimming pool or spa.

Plumbers, electricians, and heating and air conditioning installers and repairers, solar panel installers, foundation specialists, and pool installers must be issued specialty contractor licenses after passing the required examination, if the other requirements of this article are met. Vinyl and aluminum siding installers, masons, dry wall installers, carpenters, stucco installers, painters and wall paperers, and solar panel installers must be issued specialty contractor registrations, if the other requirements of this article are met.

A residential specialty trade contractor is prohibited from undertaking work outside the scope of his license or registration, including employing, hiring, and contracting or subcontracting with others to perform such work on his behalf.

The provisions of this chapter do not preclude a licensed residential builder from also obtaining licensure or registration as a residential specialty trade contractor in an area of contracting identified in statute or recognized by the commission. In addition, a residential builder, who is licensed by examination in this State, is authorized to perform work and obtain permits in any of the areas of residential specialty trade contracting without separately obtaining a residential specialty trade contractor license or registration.

Amend the bill further, SECTION 2, Section 40-59-20(7), by striking the third undesignated paragraph after item (7)(f)(ii) and inserting:

The provisions of this chapter do not preclude a licensed residential builder from also obtaining licensure or registration as a residential specialty trade contractor in an area of contracting identified in statute or recognized by the commission. In addition, a residential builder, who is licensed by examination in this State, is authorized to perform work and obtain permits in any of the areas of residential specialty trade contracting without separately obtaining a residential specialty trade contractor license or registration.

Amend the bill further, SECTION 2, by striking Section 40-59-20(8) and inserting:

(8) “Residential trade registrant” means an independent contractor who contracts with a licensed residential builder, licensed general contractor, or individual property owner to do construction work, repairs, improvements, or reimprovements that require special skills and involve the use of specialized construction trades or crafts that are not tested for licensure under this chapter, when the undertakings exceed five hundred dollars and are not regulated by the provisions of Chapter 11. A residential trade registrant is not authorized to construct additions to residential buildings or structures without supervision by a residential builder or other appropriately licensed person or entity. A registered residential trade registrant may use unregistered workers for all areas of which they are registered; provided, the registrant provides supervision to all unregistered workers and subcontractors. The registrant is fully responsible for any violations of this chapter resulting from the actions of unregistered subcontractors performing work for the registrant. The term “residential trade registrant” includes the following areas of contracting and other areas as the commission may recognize by regulation:

(a) vinyl, aluminum, cementitious, brick, stucco, masonry, or other installers of cladding materials or systems;

(b) insulation installers;

(c) roofers;

(d) floor covering installers;

(e) masons;

(f) dry wall installers;

(g) carpenters;

(h) stucco installers;

(i) painters and wall paperers; and

(j) elevator/platform lift installers.

Amend the bill further, SECTION 2, Section 40-59-20(8), by striking the undesignated paragraphs after item (8), by striking item (9), and by striking item (10) and inserting:

A residential builder who is licensed by examination in this State may perform work and obtain permits in any of the areas of residential trade contracting without separately obtaining a residential trade or trade contractor license or registration. A residential trade registrant is prohibited from undertaking work outside the scope of his registration, including employing, hiring, and contracting or subcontracting with others to perform such work on his behalf.

The provisions of this chapter do not preclude a licensed residential builder from also obtaining registration as a residential trade registrant in an area of contracting identified in statute or recognized by the commission. In addition, a residential builder, who is licensed by examination in this State, is authorized to perform work and obtain permits in any of the areas of residential trade contracting without separately obtaining a residential trade registrant registration.

(9) “Residential Building” means the practice of a licensed residential builder.

(10) “Residential Trade Contracting” means the practice of a licensed residential trade contractor or a registered trade registrant in the area in which the licensee or registrant is qualified and authorized to engage as approved by the commission.

(11) “Story” means that portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. For the purposes of determining the appropriate code to be used, when the first story is built in a flood plain, a story must be “habitable space” as defined by the adopted S.C. Building Code.

(12) “Unlicensed” or “Unregistered” means an employee, worker, or subcontractor that does not individually hold a license or registration under this chapter, but has been hired by a licensed residential builder, a licensed residential trade contractor, or a registered residential trade registrant as authorized pursuant to this chapter to perform work on behalf of the licensee or registrant. Nothing in this chapter may be construed to authorize a licensee or registrant pursuant to this chapter to unlawfully employ or hire any individual who is not permitted to work in the United States of America.

(8)(13) As used in this chapter, the terms defined in Section 40‑1‑20 have the same meaning as stated in that section.

Amend the bill further, SECTION 3, by striking Section 40-59-25(A)(2)(b), (c), and (cd) and inserting:

(b) a registered residential specialty contractortrade registrant; and

(c) a person or firm who engages or offers to engage in the business of residential building or residential specialty trade contracting without first having registered with the commission or procured a license from the commission.

Amend the bill further, SECTION 4, by striking Section 40-59-30(A) and (B) and inserting:

(A) A person or firm who engages or offers to engage in the business of residential building, or residential specialty trade contracting without first having registered with the commission or procured a license from the commission, which has not expired or been revoked, suspended, or restricted or who knowingly presents to, or files with, the commission false information for the purpose of obtaining a license or registering with the commission is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars or more than ten thousand dollars or imprisoned for not less than thirty days, or both.

(B) Notwithstanding Section 29‑5‑10, or another provision of law, a person or firm who first has not procured a license or registered with the commission and is required to do so by law may not file a mechanics' lien or bring an action at law or in equity to enforce the provisions of a contract for residential building, or residential specialty trade contracting which the person or firm entered into in violation of this chapter.

(C) Pursuant to Article 5, Chapter 23, Title 1, the commission may petition an administrative law judge to issue a temporary restraining order enjoining a violation of this chapter, pending a full hearing to determine whether the injunction must be made permanent.

Amend the bill further, by deleting SECTION 5.

Amend the bill further, SECTION 6, by striking Section 40-59-105(A) and inserting:

(A) The department may refer reports of violations of this chapter, and Article 1,~~Article 1 of~~ Chapter 1, or any reports of violations of regulations promulgated under this chapter directly to the commission or may issue administrative citations and cease and desist orders in person or by certified mail and may assess administrative penalties against an entity or individual, including unlicensed persons, for violations of this chapter as specified by the commission.

Amend the bill further, SECTION 6, by striking Section 40-59-105(C)(2) and inserting:

(2) for a second offense in a five‑year period, the citation must be referred to the commission for action in accordance with Sections 40‑59‑90 and 40‑59‑110, and is subject to a penalty of not more than a one‑thousand dollars.

Amend the bill further, SECTION 8, by striking Section 40-59-140 and inserting:

Section 40‑59‑140. A person may be denied licensure or registration based on a person's prior criminal record, at the discretion of the commission, only as provided for in Section 40‑1‑140. All new applicants shall supply a criminal background report from an accredited agency or state/government entity that covers the states where they have resided for the last ten years. The cost of the criminal background report will be borne by the applicant.

Amend the bill further, SECTION 9, by striking Section 40-59-220(A), (B), (C), (D), and (E) and inserting:

(A) All residential builders and residential trade contractors must be licensed, and all residential specialty contractorstrade registrants must be registered, by the commission for a period established by the commission in regulation. Licensees and registrants must pay an annuala biennial fee established by the department and based upon the department's costs in carrying out the provisions of this chapter.

(B) An applicant for a license or certificate shall file with the commission a written application on a form as may be prescribed by the commission. The application must be accompanied by the payment of all applicable fees required by the commission. A prerequisite for taking the examination for a residential builder's license is a minimum of one year of actual experience under the supervision of a licensed residential builder, or other appropriately licensed professional who is engaged in residential building construction involving the trades or crafts for which the license is desired, or other education or experience or a combination of these as may be approved by the commission. The commission, in examining an applicant, may consider the following qualifications of the applicant:

(1) experience;

(2) ability;

(3) character;

(4) financial condition;

(5) equipment;

(6) workers' compensation insurance; and

(7) other pertinent information the commission may require.

(C) The commission shall issue a residential builder's license if, as a result of examination, the commission finds that the applicant is qualified to engage in residential building in South Carolina, and the applicant submits an executed bond in the form and with a surety approved by the commission in the sum of not less than fifteen thousand dollars or proof of financial responsibility acceptable to the commission.

(D) The commission shall issue a residential trade contractor’s license if, as a result of examination, the commission finds that the applicant is qualified to engage in residential trade contracting in his specific field.

(E) The commission shall issue a residential specialty contractor's license trade contractor license or a residential trade registrant registration for which the applicant is qualified if, as a result of examination or approved reference, the commission finds that the applicant is qualified to engage in residential specialty contracting as a residential trade contractor or residential trade registrant in South Carolina in his specific field. When the cost of an undertaking performed by a residential specialty ~~trade~~ contractor or a residential trade registrant for an individual property owner exceeds five thousand dollars, the residential specialty contractortrade contractor or residential trade registrant must obtain an executed bond with a surety in an amount approved by the commission.

Amend the bill further, SECTION 10, by striking Section 40-59-230(A) and (B) and inserting:

(A) Unless otherwise provided under the provisions of this chapter, the commission shall annuallybienially renew all licenses upon the applicant's submission to the commission of the completed renewal application, proof of financial responsibility or bond, acceptable to the commission and payment of all applicable fees. If a license has been in inactive status for more than three years, the person shall file a new application as in the case of the issuance of an original license and is required to take and successfully complete the examination unless the commission, in its discretion, determines doing so is unnecessary.

(B) As a condition of license renewal, the commission may require by regulation a licensee to satisfactorily complete continuing education through a program approved by the commission. The commission shall institute a tiered system for residential builders licenses.

(1) A licensed residential builder (LRB) is the base license.

(2) An accredited residential builder (ARB) certification requires a minimum of eight hours of approved educational requirements prior to receiving their initial ARB certification and at the time of each renewal. The association providing the continuing education shall provide to the commission written certification of those licensees who have successfully completed the requirements for the certification. The certification remains in effect as long as:

(a) the licensee's license is in effect; and

(b) the licensee completes at least eight hours of approved educational requirements.

(3) A certified master builder (CMB) certification requires a minimum of twenty-four hours of approved educational requirements prior to receiving their initial certified master builder certification and at the time of each renewal. A licensee who successfully completes the educational requirements for CMB certification, must be certified by the commission as a “Certified Master Builder of South Carolina”. The association providing the continuing education shall provide to the commission written certification of those licensees who successfully complete the requirements for the certification. The certification remains in effect as long as:

(a) the licensee’s license is in effect; and

(b) the licensee completes at least twenty‑four hours of approved educational requirements.

(4) Approved educational requirements for the accredited residential builder and certified master builder certifications must be within the following categories:

(a) business law and practices;

(b) contracts;

(c) building codes; and

(d) safety.

(5) The licensee’s certification level must appear on the license and must include the license number in order to be verified.

Amend the bill further, SECTION 11, by striking Section 40-59-240(A), (B), (C), and (D) and inserting:

(A) The commission by regulation shall classify residential specialty contractors trade contractors and registered trade registrants in a manner consistent with established usage and procedure in the construction business and may limit the field and scope of the operations of a residential specialty contractortrade contractor and residential trade registrant to those in which he is to be licensed or registered or certified. Residential specialty contractor registrations and certificates issued by the commission may not be for more than three of the classifications recognized by the commission. Residential specialty contractors registered or certified or wishing to be registered or certified for more than three classifications must be examined and licensed as residential builders.

(B) Residential specialty contractors trade contractors and residential trade registrants must be qualified and experienced in the particular areas of the contracting vocation in which they intend to, and do, engage. The commission, by regulation, may require examination in these areas.

(C) Residential specialty contractors are not exempt from complying with county and municipal business license ordinances or other regulatory ordinances. A county or municipality may require a residential specialty contractor to be examined and licensed in accordance with standards adopted by the county or municipality; however, if a residential specialty contractor has passed an examination in his area of contracting and approved by the commission, no additional examination may be required by a county or municipality.

(D) When the total cost of materials and labor for an undertaking performed by a residential specialty contractor for an individual property owner exceeds five thousandtwo dollars, the residential specialty contractor shall obtain an executed bond with a surety in an amount approved by the commission and shall furnish a signed original to the commission.

Amend the bill further, SECTION 12, by striking Section 40-59-250(A) and inserting:

(A) A person applying to the commission for licensure as a residential builder or or registration as a residential specialty contractor residential trade contractor, or registration as a residential trade registrant, must submit to a credit report. In addition to the information provided by the credit report, the commission may determine from the written application, the personal references provided by the applicant, written communications or complaints to the commission, and from any other reliable, documented sources whether an applicant for licensure as a residential builder or, or an applicant for registration as a residential specialty contractor residential trade contractor, or registration as a residential trade registrant has a reputation for the prompt payment of labor and material bills and for the timely completion of other contracts into which the applicant may have entered.

Amend the bill further, SECTION 13, Section 40-59-260, by striking the second undesignated paragraph after subsection (C) and inserting:

State law requires residential construction to be done by licensed residential builders, and specialty contractors licensed residential trade contractors, or residential trade registrants, unless those unlicensed or unregistered subcontractors are working for a licensed residential builder, a licensed residential trade contractor, or registered residential trade registrant. You have applied for a permit under an exemption to that law. The exemption allows you, as the owner of your property, to act as your own builder even though you do not have a license. You must supervise the construction yourself. You may build or improve a one‑family or two‑family residence. The building must be for your own use and occupancy. It may not be built for sale or rent. If you sell or rent a building you have built yourself within two years after the construction is complete, the law will presume that you built it for sale or rent, which is a violation of this exemption. You may not hire an unlicensed or unregistered person as your residential builder, or specialty contractor residential trade contractor, or residential trade registrant. It is your responsibility to make sure that people employed by you have the appropriate licenses or registrations as required by state law and by county or municipal licensing ordinances. Your construction must comply with all applicable laws, ordinances, building codes, and zoning regulations”.

Amend the bill further, SECTION 14, by striking Section 40-59-270 and inserting:

Section 40‑59‑270. This chapter does not apply to a person licensed under Chapter 11 for the purpose of undertaking the construction, or superintending of construction, of a building or the improvement, reimprovement, or repair of any building. A residential builder who is licensed pursuant to this chapter is not required to be licensed as a general contractor or mechanical contractor or mechanical contractor under Chapter 11 in order to engage in residential building as defined in Section 40‑59‑1040-59-20. A mechanical contractor is exempt from this chapter relating to residential specialty trade contractors and residential trade registrants when engaged in contracting in the classification in which he is licensed to perform mechanical contracting. The commission is the exclusive licensing and registration entity for persons who engage solely in residential building and in residential specialty contracting and residential trade contracting as defined in Section 49-59-20.

Amend the bill further, SECTION 15, by striking Section 40-59-300 and inserting:

Section 40‑59‑300. Notwithstanding any other provision of law, a 501(c)(3) eleemosynary organization may construct a residential home with volunteer labor without the presence of a qualifier if the home without consideration is to be transferred to or made available for the use of an underprivileged or low‑income family or individual. “Qualifier” for purposes of this provision means a builder, or specialty contractor residential trade contractor, or residential trade registrant licensed or registered to perform the particular work being done on the site. The cost of the building permit must be borne by the 501(c)(3) organization.

Amend the bill further, SECTION 16, by striking Section 40-59-400(3) and inserting:

(3) “Firm” means a business entity functioning as a sole proprietorship, partnership, limited liability partnership, professional association, professional corporation, business corporation, limited liability company, joint venture, or other legally constituted organization which offers or provides building services through licensed residential builders, licensed residential specialty contractors trade contractors, registered residential trade registrants, or home inspectors.

Amend the bill further, SECTION 16, by striking Section 40-59-400(6) and inserting:

(6) “Responsible charge” means the direction of building services by a residential builder, residential specialty contractor trade contractor, residential trade registrant, or home inspector to the extent that successful completion of the building services is dependent on the personal supervision, direct control, and final decisions by the qualified registrant to the extent that the qualified registrant assumes professional responsibility for the building services.

Amend the bill further, SECTION 17, by striking Section 40-59-410(B) and inserting:

(B) The practice or offer to practice residential home building, residential specialty trade contracting, or home inspecting as defined in this chapter by an individual residential home builder, residential specialty contractor trade contractor, residential trade registrant, or home inspector licensed or registered under this chapter through a firm offering residential building, residential specialty contracting trade contracting, or home inspecting services to the public is authorized if:

(1) one or more of the corporate officers in the case of a corporation, or one or more of the principal owners in the case of a firm, or one or more employees are designated as the resident licensee in responsible charge of each principal or branch office for the building services regulated by the commission and are licensed under the provisions of this chapter;

(2) the firm has obtained an executed surety bond approved by the commission in the sum of fifteen thousand dollars initially and as subsequently provided by regulation; and

(3) the firm has been issued a residential business certificate of authorization by the commission. Nothing in this section may be construed to mean that a license or registration to practice residential home building, residential specialty contracting trade contracting, or home inspecting may be held by a firm.

Amend the bill further, SECTION 17, by striking Section 40-59-410(E) and inserting:

(E) Disciplinary action against a firm must be administered in the same manner and on the same grounds as disciplinary action against an individual under this chapter and Section 40‑1‑110. No firm is relieved of responsibility for conduct or acts of its agents, officers, or employees by reason of its compliance with this section, and no individual practicing residential home building, residential specialty contracting trade contracting, or home inspecting is relieved of responsibility for professional services performed by reason of his employment or relationship with the firm.

Amend the bill further, SECTION 17, by striking Section 40-59-410(H) and inserting:

(H) Residential home builders, residential specialty contractors trade contractors and residential trade registrants, or home inspectors engaged in practice through firms involving the practice of residential building, residential specialty trade contracting, or home inspecting may maintain branch offices as well as a principal place of business.

Amend the bill further, SECTION 17, Section 40-59-410(H), by striking the two undesignated paragraphs after Subsection (H) and inserting:

Each principal place of business as well as each branch office must have a resident residential builder, residential specialty contractor trade contractor, residential trade registrant, or home inspector in responsible charge of the field and office building work or services provided. A residential home builder must supervise the residential home building aspects of the principal or branch office and may also supervise the residential specialty contracting trade contracting from that location. A residential specialty contractortrade contractor or residential trade registrant may supervise residential specialty contracting trade contracting services of the principal or branch office as long as the services are within the scope of residential specialty contracting trade contracting in the classifications for which the individual is authorized to engage. A home inspector may supervise home inspecting services of the principal or branch office as long as the services are within the scope of home inspecting for which the individual is authorized to engage. The resident residential home builder, residential specialty contractor trade contractor, residential trade registrant, or home inspector is considered in responsible charge of only one place of business at a given time. Nothing herein prevents a residential home builder, residential trade contractor, residential trade registrant, or home inspector from serving as the licensee or registrant in responsible charge of a certificate of authorization, or operating a business not requiring a certificate of authorization for which the licensee or registrant is the majority owner.

For purposes of this subsection, “engaged in practice” means holding oneself out generally to the public as qualified and available to perform residential building, residential specialty contracting, trade contractring, or home inspecting services.

Amend the bill further, SECTION 17, by striking Section 40-59-410(I) and inserting:

(I) Nothing contained in this chapter prevents an authorized residential builder, or residential specialty contractor trade contractor, or residential trade registrant from undertaking a residential building project anywhere in the State so long as the project does not exceed the authorized scope of the individual’s license or registration.

Amend the bill further, SECTION 19, by striking Section 40-59-580(A) and (B) and inserting:

(A) The commission may deny, refuse to renew, temporarily suspend, or revoke a license or registration or issue a civil penalty under this section if the licensee, registrant, or applicant for licensure or registration:

(1) makes a false or misleading statement in that portion of a written report that deals with professional qualification or in any testimony concerning professional qualifications;

(2) engages in an act or omission involving dishonesty, fraud, or misrepresentation with the intent to substantially benefit a home inspector or other person or with the intent to substantially injure another person;

(3) engages in an act of fraud, misrepresentation, or deceit in the making of a home inspection;

(4) pays a finder's fee or a referral fee to a person in connection with an inspection of a residence;

(5) fails or refuses without good cause to exercise reasonable diligence in developing a home inspection report, preparing a report, or communicating a report;

(6) accepts a home inspection assignment when the employment itself is contingent upon the home inspector reporting a predetermined estimate, analysis, or opinion or when the fee to be paid is contingent upon the opinion, the conclusions, analysis, or report reached or upon the consequences resulting from the assignment;

(7) performs work or improvement to a residence upon which the home inspector performed a home inspection within the previous twelve months;

(8) employs fraud, deceit, or misrepresentation in obtaining or attempting to obtain a license or registration, or renewal of a license or registration;

(9) commits an act or acts of malpractice, gross negligence, or incompetence in the performance of home inspections;

(10) practices as a licensed or registered home inspector without a current license or registration;

(11) engages in conduct that could result in harm or injury to the public;

(12) engages in an act or practice violative of any of the provisions of this article or a regulation promulgated by the commission under this article or aids, abets, or assists a person in such violation.

(B) The commission may impose a civil penalty for violations of any provision of this article or a regulation promulgated by the commission, as follows:

(1) for a first violation, a penalty in an amount not to exceed one hundred dollars;

(2) for a second violation, a penalty in an amount not to exceed two hundred dollars; and

(3) for a third and any subsequent violation, a penalty in an amount not to exceed one thousand dollars.

Amend the bill further, SECTION 19, Section 40-59-580(B), by striking the undesignated paragraph after subsection (B) and inserting:

Civil penalties collected by the commission must be remitted to the State Treasurer for deposit in the state's general fund.

Amend the bill further, SECTION 19, by striking Section 40-59-580(C) and (DC) and inserting:

(C) Notwithstanding Section 29-5-10, or another provision of law, a person or firm who first has not procured a license or registered with the commission and is required to do so by law may not file a mechanics' lien or bring an action at law or in equity to enforce the provisions of a contract for home inspecting which the person or firm entered into in violation of this chapter. In addition to other remedies provided for in this chapter or Chapter 1, Title 40, the commission in accordance with Section 40-1-100 may issue a cease and desist order or may petition an administrative law judge for a temporary restraining order or other equitable relief to enjoin a violation of this chapter.

(D) The denial, refusal to renew, temporary suspension, or revocation of a license or the issuance of a civil penalty under this section may be ordered by a decision of a majority of the commission after a hearing held in accordance with Article 3, Chapter 23 of Title 1, the Administrative Procedures Act. A decision of the commission to deny, refuse to renew, temporarily suspend, or revoke a license or impose a civil penalty is subject to review by an administrative law judge as provided under Article 5, Chapter 23 of Title 1.

(D)(E) An individual may apply to the commission for reinstatement of a revoked license if the revocation has been in effect for at least one year. The license may be granted upon an affirmative vote by a majority of the commission.

Amend the bill further, SECTION 20, by striking Section 40-59-600(B) and inserting:

(B) A home inspector who is not otherwise exempt from this article who undertakes or attempts to undertake the business of home inspection without first obtaining a license or who knowingly presents, or files with, the commission false information for the purpose of obtaining a license is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars or more than ten thousand dollars or imprisoned for not less than thirty days, or both. Notwithstanding Section 29-5-10, or another provision of law, a person or firm who first has not procured a license or registered with the commission and is required to do so by law may not file a mechanics' lien or bring an action at law or in equity to enforce the provisions of a contract for home inspecting which the person or firm entered into in violation of this chapter. In addition to other remedies provided for in this chapter or Chapter 1, Title 40, the commission in accordance with Section 40-1-100 may issue a cease and desist order or may petition an administrative law judge for a temporary restraining order or other equitable relief to enjoin a violation of this chapter.

(1) for the first offense, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days, or both;

(2) for a second offense, upon conviction, must be fined not more than two hundred dollars or imprisoned for not more than ninety days, or both.

(3) for a third and subsequent offense, upon conviction, the person must be fined not more than one thousand dollars or imprisoned not more than one hundred eighty days, or both.

Amend the bill further, by striking SECTION 22 and inserting:

SECTION 22. This act takes effect July 1, 2025.

Renumber sections to conform.

Amend title to conform.

THOMAS C. “TOM” DAVIS for Committee.

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A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 40‑59‑35 SO AS TO PROVIDE THAT THE WORK OF CERTAIN LICENSEES OF THE RESIDENTIAL BUILDERS COMMISSION THAT COMPLIES WITH APPLICABLE REGULATIONS OF THE COMMISSION MUST BE DEEMED TO SATISFY CERTAIN IMPLIED WARRANTIES; BY ADDING SECTION 40‑59‑40 SO AS TO PROVIDE IMPLIED WARRANTIES INCLUDE ONLY THOSE PERFORMANCE STANDARDS VIOLATIONS IDENTIFIED BY A HOMEOWNER WITHIN TWELVE MONTHS AFTER SUBSTANTIAL COMPLETION; BY AMENDING SECTION 40‑59‑10, RELATING TO COMPOSITION OF THE COMMISSION, SO AS TO REVISE ITS COMPOSITION; BY AMENDING SECTION 40‑59‑20, RELATING TO DEFINITIONS APPLICABLE TO THE COMMISSION AND ITS LICENSEES, SO AS TO REVISE VARIOUS DEFINITIONS, INCLUDING THE RENAMING OF SPECIALTY CONTRACTORS AS RESIDENTIAL TRADE CONTRACTORS; BY AMENDING SECTION 40‑59‑25, RELATING TO ROOFING CONTRACT CANCELLATIONS FOR INSURANCE COVERAGE DENIALS, SO AS TO EXPAND THE APPLICABILITY OF THESE PROVISIONS; BY AMENDING SECTION 40‑59‑30, RELATING TO THE REQUIREMENT OF LICENSURE TO ENGAGE IN RESIDENTIAL BUILDING AND RESIDENTIAL SPECIALTY CONTRACTING, SO AS TO MAKE CONFORMING CHANGES AND PROVIDE PENALTIES FOR VIOLATIONS; BY AMENDING SECTION 40‑59‑50, RELATING TO THE ROSTER OF LICENSEES OF THE COMMISSION, SO AS TO MAKE CONFORMING CHANGES; BY AMENDING SECTION 40‑59‑80, RELATING TO INVESTIGATIONS OF COMPLAINTS, SO AS TO PROVIDE LICENSEES OR REGISTRANTS MAY BE PRESENT FOR INSPECTIONS CONDUCTED PURSUANT TO AN INVESTIGATION, AND TO PROVIDE UNDERLYING COMPLAINTS THAT PROMPT AN INVESTIGATION MUST BE DISMISSED IF THE COMPLAINANT UNJUSTIFIABLY REFUSES TO COOPERATE WITH THIS REQUIREMENT; BY AMENDING SECTION 40‑59‑105, RELATING TO ADMINISTRATIVE CITATIONS AND PENALTIES, SO AS TO REVISE THE BASES FOR WHICH REFERrALS OF VIOLATIONS TO THE COMMISSION ARE MADE; BY AMENDING SECTION 40‑59‑110, RELATING TO REVOCATION, SUSPENSION, OR RESTRICTION OF A LICENSE, SO AS TO MAKE CONFORMING CHANGES; BY AMENDING SECTION 40‑59‑140, RELATING TO DENIALS OF LICENSURE OR REGISTRATION BASED ON THE PAST CRIMINAL RECORD OF THE APPLICANT, SO AS TO MAKE THE DENIALS DISCRETIONArY WITH THE COMMISSION AND TO PROVIDE THAT ALL NEW APPLICANTS SHALL PROVIDE CERTAIN CRIMINAL BACKGROUND REPORTS; BY AMENDING SECTION 40‑59‑220, RELATING TO LICENSES AND CERTIFICATES OF REGISTRATION, SO AS TO MAKE CONFORMING CHANGES, TO REVISE CRITERIA FOR LICENSURE, AND TO REVISE REQUIREMENTS FOR HOMEOWNER CLAIMS FOR LOSS, AMONG OTHER THINGS; BY AMENDING SECTION 40‑59‑230, RELATING TO LICENSURE RENEWALS AND CONTINUING EDUCATION REQUIREMENTS, SO AS TO MAKE THE EXAMINATION REQUIREMENT FOR CERTAIN INACTIVE LICENSEES DISCRETIONARY WITH THE COMMISSION, TO PROVIDE THE CONTINUING EDUCATION PROGRAMS MUST BE ADMINISTERED BY THE HOME BUILDERS ASSOCIATION OF SOUTH CAROLINA, AND TO PROVIDE A TIERED SYSTEM FOR RESIDENTIAL BUILDER LICENSES; BY AMENDING SECTION 40‑59‑240, RELATING TO THE CLASSIFICATIONS OF RESIDENTIAL SPECIALTY CONTRACTORS, SO AS TO MAKE CONFORMING CHANGES, TO REMOVE THE LIMITATION ON THE NUMBER OF CLASSIFICATIONS FOR WHICH THE COMMISSION MAY ISSUE REGISTRATIONS, AND TO INCREASE THE THRESHOLD COSTS OF AN UNDERTAKING THAT REQUIRES AN EXECUTED BOND WITH A SURETY IN AN AMOUNT APPROVED BY THE COMMISSION; BY AMENDING SECTION 40‑59‑250, RELATING TO CREDIT REPORTS REQUIRED FOR LICENSURE, SO AS TO MAKE CONFORMING CHANGES, AND TO MAKE PROOF OF NET WORTH AN AVAILABLE ALTERNATIVE TO A CREDIT REPORT; BY AMENDING SECTION 40‑59‑260, RELATING TO EXCEPTIONS FOR PROJECTS BY the PROPERTY OWNER FOR PERSONAL USE, EXEMPTION DISCLOSURE STATEMENTS, AND CERTAIN NOTICES FILED WITH the REGISTER OF DEEDS, SO AS TO MAKE CONFORMING CHANGES; BY AMENDING SECTION 40‑59‑270, RELATING TO the APPLICABILITY OF CHAPTER 49, TITLE 40, TO LICENSEES OF THE CONTRACTOR’S LICENSING BOARD, SO AS TO MAKE CONFORMING CHANGES; BY AMENDING SECTION 40‑59‑300, RELATING TO CONSTRUCTION OF LOW‑INCOME HOUSING USING VOLUNTEER LABOR BY CERTAIN ELEEMOSYNARY ORGANIZATIONS, SO AS TO MAKE CONFORMING CHANGES; BY AMENDING SECTION 40‑59‑400, RELATING TO DEFINITIONS CONCERNING CERTIFICATES OF AUTHORIZATION, SO AS TO MAKE CONFORMING CHANGES; BY AMENDING SECTION 40‑59‑410, RELATING TO RESIDENTIAL BUSINESS CERTIFICATES OF AUTHORIZATION, SO AS TO MAKE CONFORMING CHANGES, AMONG OTHER THINGS; BY AMENDING SECTION 40‑59‑530, RELATING TO EXCEPTIONS FROM PROVISIONS CONCERNING THE LICENSURE OF HOME INSPECTORS, SO AS TO MAKE CONFORMING CHANGES, AMONG OTHER THINGS; BY AMENDING SECTION 40‑59‑580, RELATING TO REMEDIES AVAILABLE TO THE COMMISSION FOR VIOLATIONS OF PROVISIONS CONCERNING THE LICENSURE OF HOME INSPECTORS, SO AS TO REMOVE CIVIL PENALTIES FROM THE AVAILABLE REMEDIES; BY AMENDING SECTION 40‑59‑600, RELATING TO CRIMINAL PENALTIES FOR PERSONS UNDERTAKING THE BUSINESS OF HOME INSPECTION WITHOUT LICENSURE OR EXEMPTION, SO AS TO REMOVE TIERED PENALTIES; BY AMENDING SECTION 40‑59‑820, RELATING TO DEFINITIONS IN THE NOTICE AND OPPORTUNITY TO CURE the CONSTRUCTION DWELLING DEFECTS ACT, SO AS TO REVISE VARIOUS DEFINITIONS; BY AMENDING SECTION 40‑59‑830, RELATING TO STAYS OF ACTIONS BROUGHT UNDER THE NOTICE AND OPPORTUNITY TO CURE the CONSTRUCTION DWELLING DEFECTS ACT UNTIL THE CLAIMANT COMPLIES WITH THE PROVISIONS OF THE ACT, SO AS TO PROVIDE THE CLAIMANT’S UNJUSTIFIED FAILURE TO COMPLY WITH THE REQUIREMENTS OF THE ACT UNDER CIRCUMSTANCES THAT MAKE COMPLIANCE WITH THE CERTAIN PROVISIONS OF CHAPTER 59, TITLE 40, IMPOSSIBLE SHALL REQUIRE THE COURT TO DISMISS THE ACTION WITH PREJUDICE; AND BY REPEALING SECTION 40‑59‑560 RELATING TO INSPECTION REPORTS AND FORMS.

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

SECTION 1. Section 40‑59‑10(A) of the S.C. Code is amended to read:

(A) There is created the South Carolina Residential Builders Commission which must be composed of eight persons who have been residents of the State for at least five years and two one of whom must be consumers not engaged in the business of residential building, four five of whom have been actively engaged in residential building for a period of at least five years before the date of their appointment, and who must be recommended to the Governor by the South Carolina Home Builders Association of South Carolina, and one of whom has been actively engaged in residential specialty trade contracting for a period of at least five years before the date of appointment. One member must be appointed from each congressional district, and one must be appointed from the State at large. Members of the commission must be appointed by the Governor with the advice and consent of the Senate for a term of four years or until their successors are appointed and qualify. A vacancy occurring by reason of death, resignation, removal for cause, or otherwise must be filled for the remainder of the unexpired term in the manner of the original appointment. The Governor may remove any member of the commission in accordance with Section 1‑3‑240.

SECTION 2. Section 40‑59‑20 of the S.C. Code is amended to read:

Section 40‑59‑20. As used in this chapter unless the context clearly indicates otherwise:

(1) “Commission” means the South Carolina Residential Builders Commission.

(2) “Department” means the Department of Labor, Licensing and Regulation.

(3) “Director” means the Director of the Department of Labor, Licensing and Regulation.

(4) “Firm” means a business entity functioning as a sole proprietorship, partnership, limited liability partnership, professional association, professional corporation, business corporation, limited liability company, joint venture or other legally constituted organization which practices or offers to practice residential building or residential specialty trade contracting.

(5) “License” means a license, registration, or certification issued in accordance with this chapter.

(6) “Residential builder” means one who constructs, superintends, or offers to construct or superintend the construction, repair, improvement, or reimprovement of a residential one- or two-family dwelling meeting the scope of the adopted S.C. Residential Building Code or structures classified as Residential Group R-3 structures building or structure as outlined by the S.C. Building Code, or a new multifamily apartment building classified by the S.C. Building Code as Residential Group R-2 occupancies which is not over three floors in height and which does not have more than sixteen units in any single apartment building, when the cost of the undertaking exceeds five thousand dollars. This includes:

(a) townhomes;

(b) detached garages and other accessory structures that are not more than three stories above grade plane in height and are situated upon land that is zoned for residential construction, excluding structures regulated by the Modular Buildings Construction Act;

(c) residential apartment buildings, regardless of the number of stories and more than sixteen units, if they do not alter or modify load bearing or fire rated floors and walls, and use commercially licensed subcontractors for all trade work; and

(d) construction of a residential builder’s own model home to the same applicable code requirements as other one‑family dwelling units and two‑family dwelling units.

A licensed residential builder may use unlicensed workers for one- and two-family dwelling units including unlicensed subcontractors under his or her supervision but remains fully responsible for any building code violations resulting from the actions of unlicensed workers performing work for the licensed residential builder. Anyone who engages or offers to engage in such undertaking in this State is considered to have engaged in the business of residential building.

(7) “Residential specialty trade contractor" means an independent contractor who contracts with a licensed residential builder, licensed general contractor, or individual property owner to do construction work, repairs, improvement, or reimprovement which requires special skills and involves the use of specialized construction trades or craft that are tested for licensure, when the undertakings exceed five hundred dollars and are not regulated by the provisions of Chapter 11. A residential specialty trade contractor is not authorized to construct additions to residential buildings or structures without supervision by a residential builder or other appropriately licensed person or entity. A licensed residential trade contractor may use unlicensed workers under his supervision for all areas of which they are tested for licensure. Residential specialty trade contracting includes the following areas of contracting and other areas as the commission may recognize by regulation:

(a) plumbers;

(b) electricians;

(c) heating and air conditioning installers and repairers;

(d) vinyl and aluminum sidingsolar panel installers;

(e) insulation installers;

(f) roofers;

(g) floor covering installers;

(h) masons;

(i) dry wall installers;

(j) carpenters;

(k) stucco installers;

(l) painters and wall paperers;

(m) solar panel installers.

(e) foundation repair and service specialists; and

(f) swimming pool installers, which include the:

(i) construction, service, and repair of all residential swimming pools and spas (including concrete, gunite, plastic, vinyl‑lined, and fiberglass pools and spas), pool decks, walkways, tiling, and coping; and

(ii) installation of all equipment, including pumps, filters, and chemical feeders, water and gas service lines from the point of service to the pool equipment, wiring from the pool equipment to the first readily accessible disconnect, pool piping, fittings, backflow prevention devices, waste lines, and other integral parts of a swimming pool or spa.

Plumbers, electricians, and heating and air conditioning installers and repairers, solar panel installers, foundation specialists, and pool installers must be issued specialty contractor licenses after passing the required examination, if the other requirements of this article are met. Vinyl and aluminum siding installers, masons, dry wall installers, carpenters, stucco installers, painters and wall paperers, and solar panel installers must be issued specialty contractor registrations, if the other requirements of this article are met.

A residential specialty trade contractor is prohibited from undertaking work outside the scope of his license or registration, including employing, hiring, and contracting or subcontracting with others to perform such work on his behalf.

The provisions of this chapter do not preclude a licensed residential builder from also obtaining licensure or registration as a residential specialty trade contractor in an area of contracting identified in statute or recognized by the commission. In addition, a residential builder, who is licensed by examination in this State, is authorized to perform work and obtain permits in any of the areas of residential specialty trade contracting without separately obtaining a residential specialty trade contractor license or registration.

(8) “Residential trade registrant” means an independent contractor who contracts with a licensed residential builder, licensed general contractor, or individual property owner to do construction work, repairs, improvements, or reimprovements that require special skills and involve the use of specialized construction trades or crafts that are not tested for licensure under this chapter, when the undertakings exceed five hundred dollars and are not regulated by the provisions of Chapter 11. A residential trade registrant is not authorized to construct additions to residential buildings or structures without supervision by a residential builder or other appropriately licensed person or entity. A licensed residential trade registrant may use unlicensed workers under their supervision for all areas of which they are registered. The term “residential trade registrant” includes the following areas of contracting and other areas as the commission may recognize by regulation:

(a) vinyl, aluminum, cementitious, brick, stucco, masonry, or other installers of cladding materials or systems;

(b) insulation installers;

(c) roofers;

(d) floor covering installers;

(e) masons;

(f) dry wall installers;

(g) carpenters;

(h) stucco installers;

(i) painters and wall paperers; and

(j) elevator/platform lift installers.

A residential builder who is licensed by examination in this State may perform work and obtain permits in any of the areas of residential trade contracting without separately obtaining a residential trade or trade contractor license or registration.

(9) “Story” means that portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. For the purposes of determining the appropriate code to be used, when the first story is built in a flood plain, a story must be “habitable space” as defined by the adopted S.C. Building Code.

(810) As used in this chapter, the terms defined in Section 40‑1‑20 have the same meaning as stated in that section.

SECTION 3. Section 40‑59‑25(A) of the S.C. Code is amended to read:

(A)(1) A person who enters into a written contract for goods or services related to a roofing system with a party who will be paid from proceeds of a property and casualty insurance policy and who subsequently receives written notice from the insurer that all or part of the claim or contract is not a covered loss under the policy may cancel the contract prior to midnight on the fifth business day after the insured has received the written notice of the denial of coverage.

(2) This section applies to the following persons performing goods or services related to a roofing system:

(a) a licensed residential builder;

(b) a licensed residential trade contractor;

(c) a registered residential specialty contractortrade registrant; and

(cd) a person or firm who engages or offers to engage in the business of residential building or residential specialty trade contracting without first having registered with the commission or procured a license from the commission.

(3) Cancellation must be evidenced by the insured giving written notice of cancellation to the builder or contractor at the address provided in the contract. Notice of cancellation, if given by mail, must be effective upon deposit into the United States mail, postage prepaid and properly addressed to the builder or contractor. Notice of cancellation need not take a particular form and shall be sufficient if it indicates, by any form of written expression, the intention of the insured not to be bound by the contract.

(4) For purposes of this subsection, “roof system” means a roof covering, roof sheathing, roof weatherproofing, roof framing, roof ventilation system, or insulation.

SECTION 4. Section 40‑59‑30 of the S.C. Code is amended to read:

Section 40‑59‑30. (A) A person or firm who engages or offers to engage in the business of residential building or residential specialty trade contracting without first having registered with the commission or procured a license from the commission, which has not expired or been revoked, suspended, or restricted or who knowingly presents to, or files with, the commission false information for the purpose of obtaining a license or registering with the commission is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars or more than ten thousand dollars or imprisoned for not less than thirty days, or both.

(B) Notwithstanding Section 29‑5‑10, or another provision of law, a person or firm who first has not procured a license or registered with the commission and is required to do so by law may not file a mechanics' lien or bring an action at law or in equity to enforce the provisions of a contract for residential building or residential specialty trade contracting which the person or firm entered into in violation of this chapter.

(C) Pursuant to Article 5, Chapter 23, Title 1, the commission may petition an administrative law judge to issue a temporary restraining order enjoining a violation of this chapter, pending a full hearing to determine whether the injunction must be made permanent.

SECTION 5. Section 40‑59‑50(G) of the S.C. Code is amended to read:

(G) A roster including the names and places of business of the residential builders and residential specialty contractors trade contractors and trade registrants licensed or registered by the commission during the preceding year mustmay be prepared annually by the commission and forwarded to and filed with the clerk of court for each county.

SECTION 6. Section 40‑59‑105 of the S.C. Code is amended to read:

Section 40‑59‑105. (A) The department may refer reports of violations of this chapter, and Articleincluding Articles 1, 2, and 3 of, Chapter 1, or any reports of violations of regulations promulgated under this chapter directly to the commission or may issue administrative citations and cease and desist orders in person or by certified mail and may assess administrative penalties against an entity or individual, including unlicensed persons, for violations of this chapter as specified by the commission.

(B) Separate citations may be issued and separate administrative penalties may be assessed for each violation; however, no more than two thousand five hundred dollars in administrative penalties may be assessed against an entity or an individual per day.

(C) Administrative penalties authorized under this section are separate from and in addition to all other remedies, either civil or criminal, and these penalties may not exceed the following limits:

(1) for a first offense, not more than a five‑hundred dollar penalty;

(2) for a second offense in a five‑year period, the citation must be referred to the commission for action in accordance with Sections 40‑59‑90 and 40‑59‑110 not more than a one‑thousand dollar penalty.

(D) An entity or individual assessed administrative penalties may appeal those penalties to the commission within ten days of receipt of the citation. If an appeal is filed, the department shall schedule a hearing before the commission, which shall make a determination in the matter. If no appeal is filed, the citation is deemed a final order and the administrative penalties must be paid within thirty days of receipt of the citation or other written demand.

SECTION 7. Section 40‑59‑110 of the S.C. Code is amended to read:

Section 40‑59‑110. In addition to the grounds provided for in Section 40‑1‑110, the commission, upon a majority vote, may revoke, suspend, or restrict the license or registration of a licensee or registrant who the commission finds has committed fraud or deceit in obtaining a license or registration under this chapter or has engaged in misconduct in the practice of residential building, or of a residential specialty contracting trade contractor or a residential trade registrant. For purposes of this section, misconduct includes a violation of Section 40‑59‑25, or a pattern of repeated failure by a residential builder, or residential specialty contractor trade contractor, or residential trade registrant to pay labor or material bills. For purposes of disciplinary matters, or otherwise, compliance with the construction standards adopted by the commission is prima facie evidence of compliance with applicable professional standards.

SECTION 8. Section 40‑59‑140 of the S.C. Code is amended to read:

Section 40‑59‑140. A person may be denied licensure or registration based on a person's prior criminal record, at the discretion of the commission, only as provided for in Section 40‑1‑140. All new applicants shall supply a criminal background report from an accredited agency or state/government entity that covers the states where they have resided for the last ten years.

SECTION 9. Section 40‑59‑220 of the S.C. Code is amended to read:

Section 40‑59‑220. (A) All residential builders and residential trade contractors must be licensed, and all residential specialty contractorstrade registrants must be registered, by the commission for a period established by the commission in regulation. Licensees and registrants must pay an annual fee established by the department and based upon the department's costs in carrying out the provisions of this chapter.

(B) An applicant for a license or certificate shall file with the commission a written application on a form as may be prescribed by the commission. The application must be accompanied by the payment of all applicable fees required by the commission. A prerequisite for taking the examination for a residential builder's license is a minimum of one yeartwo years of actual experience under the supervision of a licensed residential builder, or other appropriately licensed professional who is engaged in residential building construction involving the trades or crafts for which the license is desired, or other education or experience or a combination of these as may be approved by the commission. The applicant must have attained the age of twenty‑one years unless the commission considers their education and experience to be sufficient. The commission, in examining an applicant, may consider the following qualifications of the applicant:

(1) experience;

(2) ability;

(3) character;

(4) financial condition;

(5) equipment;

(6) workers' compensation insurance; and

(7) other pertinent information the commission may require.

(C) The commission shall issue a residential builder's license if, as a result of examination, the commission finds that the applicant is qualified to engage in residential building in South Carolina, and the applicant submits an executed bond in the form and with a surety approved by the commission in the sum of not less than fifteen thousand dollars or proof of financial responsibility acceptable to the commission. The surety bond shall respond in the event the licensee fails to comply with the requirements of this chapter and regulations promulgated by its authority. The commission may file claims against a licensee’s surety bond resulting from the licensee’s violation of this chapter or regulations promulgated by its authority.

(1) A claim on the bond of a residential builder must be submitted to the commission as a prerequisite to any claim against a bond issued pursuant to this section; provided, however, that no such claim may be brought unless the homeowner has first complied with the requirements of the South Carolina Notice and Opportunity to Cure Construction Dwelling Defects Act.

(2) A homeowner who sustains loss or damage by reason of any act or omission covered by this bond may bring an action in his name on this bond for the recovery of costs of repair or costs of remediation sustained by the homeowner that are covered by the bond, up to the amount of the bond’s penal sum. In any such action, the licensee or registrant is a necessary party. This action must be brought before the commission in the form of a formal complaint, and the commission has jurisdiction to determine the validity of the claim and to determine the costs of repair, remediation, or both, sustained by the homeowner. Claims are limited to the actual costs of repair, remediation, or both, and may not include an award of attorney’s fees as damages.

(3) The aggregate liability of the surety may not exceed the penal sum of this bond. This bond only may apply to transactions occurring on or after the effective date of this item and extensions by continuation certificate, reinstatement, reissue, or renewal of this bond shall not increase the liability of the surety.

(D) The commission shall issue a residential trade contractor’s license if, as a result of examination, the commission finds that the applicant is qualified to engage in residential trade contracting in his specific field. When the cost of an undertaking performed by a residential trade contractor for an individual property owner exceeds five hundred dollars, the residential trade contractor must obtain an executed bond with a surety in an amount approved by the commission.

(1) A claim on the bond of a trade contractor must be submitted to the commission as a prerequisite to any claim against a bond issued pursuant to this section; provided, however, that no such claim may be brought unless the homeowner has first complied with the requirements of the South Carolina Notice and Opportunity to Cure Construction Dwelling Defects Act.

(2) A homeowner who sustains loss or damage by reason of any act or omission covered by this bond may bring an action in his name on this bond for the recovery of costs of repair or costs of remediation sustained by the homeowner that are covered by the bond, up to the amount of the bond’s penal sum. In any such action, the licensee or registrant is a necessary party. This action must be brought before the commission in the form of a formal complaint, and the commission has jurisdiction to determine the validity of the claim and to determine the costs of repair, remediation, or both, sustained by the homeowner. Claims are limited to the actual costs of repair, remediation, or both, and may not include an award of attorney’s fees as damages.

(3) The aggregate liability of the surety may not exceed the penal sum of this bond. This bond only may apply to transactions occurring on or after the effective date of this item and extensions by continuation certificate, reinstatement, reissue, or renewal of this bond shall not increase the liability of the surety.

(E) The commission shall issue a residential specialty contractor's license trade registration for which the applicant is qualified if, as a result of examination or approved reference, the commission finds that the applicant is qualified to engage in residential specialty contracting as a residential trade registrant in South Carolina. When the cost of an undertaking performed by a residential specialty contractortrade registrant for an individual property owner exceeds five hundredthousanddollars, the residential specialty contractortrade registrant must obtain an executed bond with a surety in an amount approved by the commission.

(1) A claim on the bond of a residential trade registrant must be submitted to the commission as a prerequisite to any claim against a bond issued pursuant to this section; provided, however, that no such claim may be brought unless the homeowner has first complied with the requirements of the South Carolina Notice and Opportunity to Cure Construction Dwelling Defects Act.

(2) A homeowner who sustains loss or damage by reason of any act or omission covered by this bond may bring an action in his name on this bond for the recovery of costs of repair or costs of remediation sustained by the homeowner that are covered by the bond, up to the amount of the bond’s penal sum. In any such action, the licensee or registrant is a necessary party. This action must be brought before the commission in the form of a formal complaint, and the commission has jurisdiction to determine the validity of the claim and to determine the costs of repair, remediation, or both, sustained by the homeowner. Claims are limited to the actual costs of repair, remediation, or both, and may not include an award of attorney’s fees as damages.

(3) The aggregate liability of the surety may not exceed the penal sum of this bond. This bond only may apply to transactions occurring on or after the effective date of this section, and extensions by continuation certificate, reinstatement, reissue, or renewal of this bond shall not increase the liability of the surety.

(EF) An applicant who fails the examination must be given the opportunity to be reexamined after payment of an additional examination fee; however, if the applicant fails the examination three times, the applicant shall wait twelve months before being examined again. A record must be made and preserved by the commission of each examination of an applicant and the findings of the commission pertaining to the examination. A certified copy of the record must be furnished to an applicant requesting the record upon the payment of a fee to the commission that reasonably reflects the cost of furnishing the record to the applicant.

(FG) A license may be granted by the commission without examination to those applicants who are licensed in good standing in other states which are determined by the commission to have comparable examinations.

SECTION 10. Section 40‑59‑230 of the S.C. Code is amended to read:

Section 40‑59‑230. (A) Unless otherwise provided under the provisions of this chapter, the commission shall annually renew all licenses upon the applicant's submission to the commission of the completed renewal application, proof of financial responsibility or bond, acceptable to the commission and payment of all applicable fees. If a license has been in inactive status for more than three years, the person shall file a new application as in the case of the issuance of an original license and is required to take and successfully complete the examination unless the commission, in its discretion, determines doing so is unnecessary.

(B) As a condition of license renewal, the commission may require by regulation a licensee to satisfactorily complete continuing education through a program approved by the commission. The commission shall institute a new tiered system for residential builders licenses.

(1) A licensed residential builder (LRB) is the base license and requires no continuing education.

(2) An accredited residential builder (ARB) requires a minimum of eight hours of approved educational requirements prior to receiving their initial ARB license and at the time of each renewal. The association shall provide to the commission written certification of those licensees who have successfully completed the requirements for the certification. The certification remains in effect as long as:

(a) the licensee's license is in effect; and

(b) the licensee completes at least eight hours of approved educational requirements, as certified by the association.

(3) A licensee who successfully completes the educational requirements for Certified Master Builder, as established by the association, must be certified by the commission as a “South Carolina Master Builder”. The association shall provide to the commission written certification of licensees who successfully complete the requirements for the certification. The certification must remain in effect as long as:

(a) the licensee’s license is in effect; and

(b) the licensee completes at least twenty‑four hours of approved educational requirements, as certified by the association, prior to receiving their initial master builder license and at the time of each renewal.

(4) Approved educational requirements must be within the following categories:

(a) business law and practices;

(b) contracts;

(c) building codes; and

(d) safety.

(5) The license level must appear on the license and must include the license number in order to be verified.

(C) A licensee must notify the commission in writing within thirty days of any change in the information required to be on file with the commission including, but not limited to, the licensee's current mailing address.

SECTION 11. Section 40‑59‑240 of the S.C. Code is amended to read:

Section 40‑59‑240. (A) The commission by regulation shall classify residential specialty contractors trade contractors and trade registrants in a manner consistent with established usage and procedure in the construction business and may limit the field and scope of the operations of a residential specialty contractortrade contractor and trade registrant to those in which he is to be registered or certified. Residential specialty contractor registrations and certificates issued by the commission may not be for more than three of the classifications recognized by the commission. Residential specialty contractors registered or certified or wishing to be registered or certified for more than three classifications must be examined and licensed as residential builders.

(B) Residential specialty contractors trade contractors and trade registrants must be qualified and experienced in the particular areas of the contracting vocation in which they intend to, and do, engage. The commission, by regulation, may require examination in these areas.

(C) Residential specialty contractors trade contractors and trade registrants are not exempt from complying with county and municipal business license ordinances or other regulatory ordinances. A county or municipality may require a residential specialty contractor residential trade contractors and trade registrants to be examined and licensed in accordance with standards adopted by the county or municipality; however, if a residential specialty contractor trade contractor and trade registrant has passed an examination in his area of contracting and approved by the commission, no additional examination may be required by a county or municipality.

(D) When the total cost of materials and labor for an undertaking performed by a residential specialty contractor trade contractor and trade registrant for an individual property owner exceeds five thousandtwo hundred dollars, the residential specialty contractor trade contractor and trade registrant shall obtain an executed bond with a surety in an amount approved by the commission and shall furnish a signed original to the commission.

SECTION 12. Section 40‑59‑250(A) of the S.C. Code is amended to read:

(A) A person applying to the commission for licensure as a residential builder, or registration as a residential specialty contractor residential trade contractor, or residential trade registrant must submit to a credit report. In addition to the information provided by the credit report, the commission may determine from the written application, the personal references provided by the applicant, written communications or complaints to the commission, and from any other reliable, documented sources whether an applicant for licensure as a residential builder, or an applicant for registration as a residential specialty contractor residential trade contractor, or residential trade registrant has a reputation for the prompt payment of labor and material bills and for the timely completion of other contracts into which the applicant may have entered.

SECTION 13. Section 40‑59‑260 of the S.C. Code is amended to read:

Section 40‑59‑260. (A) This chapter does not apply to an owner of residential property who improves the property or who builds or improves structures or appurtenances on the property if:

(1) the owner does the work himself, with his own employees, or with licensed contractors or registered entities or individuals;

(2) 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

(3) the general public does not have access to this structure.

(B) 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 or occupancy is prima facie evidence that the project was undertaken for the purpose of sale or rent, unless otherwise approved by the commission, and is subject to the penalties provided in this chapter. As used in this section, “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. This section does not exempt a person who is employed by the owner and who acts in the capacity of a builder, or a specialty contractor trade contractor, or trade registrant of any kind.

(C) To qualify for exemption under this section, an owner must personally appear and sign the building permit application. The local permitting agency shall provide the person with a disclosure statement, provided by the department, in substantially the following form:

“Disclosure Statement

State law requires residential construction to be done by licensed residential builders, and specialty contractors residential trade contractors, and residential trade registrants, unless those contractors or registrants are working for a licensed residential builder. You have applied for a permit under an exemption to that law. The exemption allows you, as the owner of your property, to act as your own builder even though you do not have a license. You must supervise the construction yourself. You may build or improve a one‑family or two‑family residence. The building must be for your own use and occupancy. It may not be built for sale or rent. If you sell or rent a building you have built yourself within two years after the construction is complete, the law will presume that you built it for sale or rent, which is a violation of this exemption. You may not hire an unlicensed person as your residential builder, or specialty contractor residential trade contractor, or trade registrant. It is your responsibility to make sure that people employed by you have licenses required by state law and by county or municipal licensing ordinances. Your construction must comply with all applicable laws, ordinances, building codes, and zoning regulations”.

(D) At the time an owner personally appears and signs the building permit application as required by subsection (C) of this section, the local permitting agency shall provide the owner with all forms necessary to comply with subsection (E) of this section.

(E) If a residential building or structure has been constructed by an owner under the exemption provided for in this section, the owner of the residential building or structure must promptly file as a matter of public record a notice with the register of deeds, indexed under the owner's name in the grantor's index, stating that the residential building or structure was constructed by the owner as an unlicensed builder. Failure to do so revokes the statutory exemption.

(F) Nothing in this chapter may be construed to authorize an owner of a residential building or structure to hire a person or entity that is not licensed or registered in accordance with this chapter.

SECTION 14. Section 40‑59‑270 of the S.C. Code is amended to read:

Section 40‑59‑270. This chapter does not apply to a person licensed under Chapter 11 for the purpose of undertaking the construction, or superintending of construction, of a building or the improvement, reimprovement, or repair of any building. A residential builder who is licensed pursuant to this chapter is not required to be licensed as a general contractor, or mechanical contractor trade contractor, or trade registrant under Chapter 11 in order to engage in residential building as defined in Section 40‑59‑10. A mechanical contractor is exempt from this chapter relating to residential specialty trade contractors when engaged in contracting in the classification in which he is licensed to perform mechanical contracting. The commission is the exclusive licensing and registration entity for persons who engage solely in residential building, and in residential specialty contractingtrade contracting, and trade registration.

SECTION 15. Section 40‑59‑300 of the S.C. Code is amended to read:

Section 40‑59‑300. Notwithstanding any other provision of law, a 501(c)(3) eleemosynary organization may construct a residential home with volunteer labor without the presence of a qualifier if the home without consideration is to be transferred to or made available for the use of an underprivileged or low‑income family or individual. “Qualifier” for purposes of this provision means a builder, or specialty contractor residential trade contractor, or residential trade registrant licensed to perform the particular work being done on the site. The cost of the building permit must be borne by the 501(c)(3) organization.

SECTION 16. Section 40‑59‑400 of the S.C. Code is amended to read:

Section 40‑59‑400. For purposes of this article:

(1) “Branch office” means a place of business separate from the principal place of business where building services are offered or provided. A specific project or construction site office is not a branch office.

(2) “Commission” means the South Carolina Residential Builders Commission established in Article 1.

(3) “Firm” means a business entity functioning as a sole proprietorship, partnership, limited liability partnership, professional association, professional corporation, business corporation, limited liability company, joint venture, or other legally constituted organization which offers or provides building services through licensed residential builders, residential specialty contractors trade contractors and trade registrants, or home inspectors.

(4) “Private practice firm” means a firm through which the practice of residential building, residential specialty contracting trade contracting, or home inspecting requires a residential business certificate of authorization as described in this chapter.

(5) “Resident licensee” means a licensed practitioner who spends a majority of each normal workday working out of a principal or branch office and who is in responsible charge of the office and the building services provided from that office including, but not limited to, responsibility for applying for permits for the firm.

(6) “Responsible charge” means the direction of building services by a residential builder, residential specialty contractor trade contractor and trade registrant, or home inspector to the extent that successful completion of the building services is dependent on the personal supervision, direct control, and final decisions by the qualified registrant to the extent that the qualified registrant assumes professional responsibility for the building services.

SECTION 17. Section 40‑59‑410 of the S.C. Code is amended to read:

Section 40‑59‑410. (A) The practice or offer to practice residential building, residential specialty trade contracting, or home inspecting through a firm is authorized only through entities holding a residential business certificate of authorization issued by the commission. For the purposes of this section, a residential business certificate of authorization is also required for any firm practicing in this State under a fictitious name. However, when an individual is practicing residential home building, residential specialty trade contracting, or home inspecting in his name as individually licensed, or if an individual has at least fifty‑one percent of the ownership interest and is the sole resident licensee for the firm, that person or entity is not required to be issued a residential business certificate of authorization.

(B) The practice or offer to practice residential home building, residential specialty trade contracting, or home inspecting as defined in this chapter by an individual residential home builder, residential specialty contractor trade contractor and trade registrant, or home inspector licensed or registered under this chapter through a firm offering residential building, residential specialty contracting trade contractor and trade registrant, or home inspecting services to the public is authorized if:

(1) one or more of the corporate officers in the case of a corporation, or one or more of the principal owners in the case of a firm, or one or more employees are designated as the resident licensee in responsible charge of each principal or branch office for the building services regulated by the commission and are licensed under the provisions of this chapter;

(2) the firm has obtained an executed surety bond approved by the commission in the sum of fifteen thousand dollars initially and as subsequently provided by regulation; and

(3) the firm has been issued a residential business certificate of authorization by the commission. Nothing in this section may be construed to mean that a license or registration to practice residential home building, residential specialty contracting trade contractor and trade registrant, or home inspecting may be held by a firm.

(C) Approval of firms seeking to incorporate or register to do business in this State under this section must be conditioned upon proper filing with the Secretary of State of the articles of incorporation and revisions to the articles, as certified by the Secretary of State. This section may not be construed to require an additional filing with the Secretary of State not otherwise required by law.

(D) A firm desiring a residential business certificate of authorization shall file with the department an application on forms provided by the department accompanied by all applicable fees. Each residential business certificate of authorization must be renewed by July first of the licensing period. A renewal form provided by the department must be completed and submitted with all applicable fees. The initial application fee and annual renewal fee are one hundred dollars and as subsequently provided by regulation. Information to be provided on the application and renewal forms shall include the names and addresses of all officers and directors of the firm or officers and partners of the partnership who are licensed or registered to practice residential home building, residential specialty trade contracting, or home inspecting in this State, including those in responsible charge of all principal and branch offices providing building services in the State.

(E) Disciplinary action against a firm must be administered in the same manner and on the same grounds as disciplinary action against an individual under this chapter and Section 40‑1‑110. No firm is relieved of responsibility for conduct or acts of its agents, officers, or employees by reason of its compliance with this section, and no individual practicing residential home building, residential specialty contracting trade contractor and trade registrant, or home inspecting is relieved of responsibility for professional services performed by reason of his employment or relationship with the firm.

(F) Nothing in this section may be construed to prohibit firms from joining together to offer residential home building, residential specialty trade contracting, or home inspecting services to the public, if each separate entity providing the services in this State otherwise meets the requirements of this section. For firms practicing as a professional corporation under the laws of this State, the joint practice of residential home building, residential specialty trade contracting, or home inspecting with other professions is approved by the commission.

(G) If the requirements of this section are met, the commission shall issue a residential business certificate of authorization to the firm, and the firm may engage or offer to engage in the business of residential home building, residential specialty trade contracting, or home inspecting. The commission, however, may refuse to issue a certificate or may suspend or revoke an existing certificate for due cause. A person or organization aggrieved by an adverse determination of the commission may seek judicial review in accordance with this chapter.

(H) Residential home builders, residential specialty contractors trade contractors and trade registrants, or home inspectors engaged in practice through firms involving the practice of residential building, residential specialty trade contracting, or home inspecting may maintain branch offices as well as a principal place of business.

Each principal place of business as well as each branch office must have a resident residential builder, residential specialty contractor trade contractor and trade registrant, or home inspector in responsible charge of the field and office building work or services provided. A residential home builder must supervise the residential home building aspects of the principal or branch office and may also supervise the residential specialty contracting trade contractors and trade registrants from that location. A residential specialty contractortrade contractor and trade registrant may supervise residential specialty contracting trade contractor and trade registrant services of the principal or branch office as long as the services are within the scope of a residential specialty contracting trade registrant in the classifications for which the individual is authorized to engage. A home inspector may supervise home inspecting services of the principal or branch office as long as the services are within the scope of home inspecting for which the individual is authorized to engage. The resident residential home builder, residential specialty contractor trade contractor and trade registrant, or home inspector is considered in responsible charge of only one place of business at a given time. Nothing herein prevents a residential home builder, residential mechanical or trade contractor, residential craftsman, or home inspector from serving as the licensee in responsible charge of a certificate of authorization and operating a business not requiring a certificate of authorization for which the licensee is the majority owner.

For purposes of this subsection, “engaged in practice” means holding oneself out generally to the public as qualified and available to perform residential building, or a residential specialty contracting, trade contractor and trade registrant, or home inspecting services.

(I) Nothing contained in this chapter prevents an authorized residential builder, or residential specialty contractor trade contractor, or trade registrant from undertaking a residential building project anywhere in the State.

SECTION 18. Section 40‑59‑530(3) of the S.C. Code is amended to read:

(3) licensed, registered, or certified pursuant to Chapter 3 or a person duly licensed as a general contractor pursuant to Chapter 11 or a person duly licensed pursuant to Article 1 of Chapter 59 or a person duly licensed or registered as a professional engineer pursuant to Chapter 22. Notwithstanding the exemption from licensure under this article, the provisions of this article relating to the conduct of a person in the performance of a home inspection shall apply to that person. In order to engage in the business of home inspection, a person exempted from licensure under this article must register with the commission and pay a fee to the commission of not more than the cost of registering the individual as a home inspector. A violation of this article is considered a violation against the person's license and subjects the person to disciplinary action by the licensing board under which the person is licensed registration as a home inspector and subjects the person to disciplinary action by the commission;

SECTION 19. Section 40‑59‑580 of the S.C. Code is amended to read:

Section 40‑59‑580. (A) The commission may deny, refuse to renew, temporarily suspend, or revoke a license or issue a civil penalty under this section if the licensee or applicant for licensure:

(1) makes a false or misleading statement in that portion of a written report that deals with professional qualification or in any testimony concerning professional qualifications;

(2) engages in an act or omission involving dishonesty, fraud, or misrepresentation with the intent to substantially benefit a home inspector or other person or with the intent to substantially injure another person;

(3) engages in an act of fraud, misrepresentation, or deceit in the making of a home inspection;

(4) pays a finder's fee or a referral fee to a person in connection with an inspection of a residence;

(5) fails or refuses without good cause to exercise reasonable diligence in developing a home inspection report, preparing a report, or communicating a report;

(6) accepts a home inspection assignment when the employment itself is contingent upon the home inspector reporting a predetermined estimate, analysis, or opinion or when the fee to be paid is contingent upon the opinion, the conclusions, analysis, or report reached or upon the consequences resulting from the assignment;

(7) performs work or improvement to a residence upon which the home inspector performed a home inspection within the previous twelve months;

(8) employs fraud, deceit, or misrepresentation in obtaining or attempting to obtain a license or renewal of a license;

(9) commits an act or acts of malpractice, gross negligence, or incompetence in the performance of home inspections;

(10) practices as a licensed home inspector without a current license;

(11) engages in conduct that could result in harm or injury to the public;

(12) engages in an act or practice violative of any of the provisions of this article or a regulation promulgated by the commission under this article or aids, abets, or assists a person in such violation.

(B) The commission may impose a civil penalty for violations of any provision of this article or a regulation promulgated by the commission, as follows:

(1) for a first violation, a penalty in an amount not to exceed one hundred dollars;

(2) for a second violation, a penalty in an amount not to exceed two hundred dollars; and

(3) for a third and any subsequent violation, a penalty in an amount not to exceed one thousand dollars.

Civil penalties collected by the commission must be remitted to the State Treasurer for deposit in the state's general fund.

(C) The denial, refusal to renew, temporary suspension, or revocation of a license or the issuance of a civil penalty under this section may be ordered by a decision of a majority of the commission after a hearing held in accordance with Article 3, Chapter 23 of Title 1, the Administrative Procedures Act. A decision of the commission to deny, refuse to renew, temporarily suspend, or revoke a license or impose a civil penalty is subject to review by an administrative law judge as provided under Article 5, Chapter 23 of Title 1.

(DC) An individual may apply to the commission for reinstatement of a revoked license if the revocation has been in effect for at least one year. The license may be granted upon an affirmative vote by a majority of the commission.

SECTION 20. Section 40‑59‑600(B) of the S.C. Code is amended to read:

(B) A home inspector who is not otherwise exempt from this article who undertakes or attempts to undertake the business of home inspection without first obtaining a license or who knowingly presents, or files with, the commission false information for the purpose of obtaining a license is guilty of a misdemeanor and:

(1) for the first offense, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days, or both;

(2) for a second offense, upon conviction, must be fined not more than two hundred dollars or imprisoned for not more than ninety days, or both.

(3) for a third and subsequent offense, upon conviction, the person must be fined not more than one thousand dollars or imprisoned not more than one hundred eighty days, or both.

SECTION 21. Section 40‑59‑820 of the S.C. Code is amended to read:

Section 40‑59‑820. As used in this article:

(1) “Action” means any civil lawsuit or action or arbitration proceeding for damages or indemnity asserting a claim for injury or loss to a dwelling or personal property caused by an alleged defect arising out of or related to the design, construction, condition, or sale of the dwelling or a remodel of a dwelling.

(2) “Claimant” means a homeowner, including a subsequent purchaser, who asserts a claim against a contractor, subcontractor, supplier, or design professional concerning a defect in the design, construction, condition, or sale of a dwelling or in the remodel of a dwelling.

(3) “Construction defect” means a deficiency in or a deficiency arising out of the design, specifications, surveying, planning, supervision, or observation of construction or construction of residential improvements that results from any of the following:

(a) defective material, products, or components used in the construction of residential improvements;

(b) violation of the applicable codes in effect at the time of construction of residential improvements;

(c) failure of the design of residential improvements to meet the applicable professional standards of care at the time of governmental approval of the design of residential improvements; or

(d) failure to construct residential improvements in accordance with accepted trade standards for good and workmanlike construction at the time of construction. Compliance with the applicable codes in effect at the time of construction conclusively establishes construction in accordance with accepted trade standards for good and workmanlike construction, with respect to all matters specified in those codes.

(4) “Dwelling” means a single‑family house or duplex or a multifamily unit not to exceed sixteen units and not to exceed three stories in height, and which that is intended for residential use. A dwelling includes the systems and other components and improvements that are part of a single or multifamily unit at the time of construction.

(5) “Serve” or “service” means personal service or delivery by certified mail to the last known address of the addressee.

SECTION 22. This act takes effect upon approval by the Governor.

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