

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1093 Session of
1991

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BELFANTI, BUNT, PERZEL, STURLA, KRUSZEWSKI, R. C. WRIGHT AND
GEORGE, APRIL 9, 1991

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, APRIL 9, 1991

AN ACT

1 Regulating and requiring the licensure of electrical
2 contractors; establishing the State Board of Electrical
3 Contractors and providing for its powers and duties; making
4 an appropriation; and providing penalties.

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14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 Section 1. Short title.

17 This act shall be known and may be cited as the Electrical
18 Contractors Licensing Act.

19 Section 2. Definitions.

20 The following words and phrases when used in this act shall
21 have the meanings given to them in this section unless the
22 context clearly indicates otherwise.

23 "Board." The State Board of Electrical Contractors under the
24 Bureau of Professional and Occupational Affairs within the
25 Department of State.

26 "Commissioner." The Commissioner of Professional and
27 Occupational Affairs.

28 "Electrical contractor." A person who performs or supervises
29 electrical services, including, but not limited to, the
30 installation, erection, repair or alteration of electrical

1 equipment for the generation, transmission or utilization of
2 electrical energy.

3 Section 3. State Board of Electrical Contractors.

4 (a) Creation.--There is hereby created the State Board of
5 Electrical Contractors, a departmental administrative board in
6 the Department of State. The board shall consist of nine members
7 who are citizens of the United States and who have been
8 residents of this Commonwealth for a two-year period, two of
9 whom shall be public members, four of whom shall be qualified
10 electrical contractors with experience of not less than ten
11 years as an electrical contractor, one of whom shall be a
12 qualified electrical inspector with experience of not less than
13 five years as an electrical inspector, one of whom shall be an
14 electrician who has completed a State-approved apprenticeship
15 and who has been employed in the electrical construction
16 industry for not less than five years, and one of whom shall be
17 the Commissioner of the Bureau of Professional and Occupational
18 Affairs. Two of the electrical contractor members shall be
19 signatories to collective bargaining agreements and the
20 remaining two shall be nonsignatories.

21 (b) Terms of office.--The members shall serve for four-year
22 terms, except as provided in subsection (c), and shall be
23 appointed by the Governor by and with the advice and consent of
24 a majority of the members elected to the Senate.

25 (c) Initial appointments.--Within 90 days of the effective
26 date of this act, the Governor shall nominate two qualified
27 electrical contractors with experience of not less than ten
28 years as electrical contractors and one public member to serve
29 four-year terms; one qualified electrical contractor with
30 experience of not less than ten years as an electrical

1 contractor and one qualified electrical inspector with
2 experience of not less than five years as an electrical
3 inspector to serve three-year terms; one qualified electrical
4 contractor with experience of not less than ten years as an
5 electrical contractor, and one electrician who has completed a
6 State-approved apprenticeship and who has been employed in the
7 electrical construction industry for not less than five years
8 and one public member to serve two-year terms.

9 (d) Continuation in office.--Each board member shall
10 continue in office until a successor is duly appointed and
11 qualified but no longer than six months after the expiration of
12 the term. In the event that a board member dies, resigns or
13 otherwise becomes disqualified during the term of office, a
14 successor shall be appointed in the same way and with the same
15 qualifications as set forth in this section and shall hold
16 office for the unexpired portion of the unexpired term.

17 (e) Limit on terms.--No board member shall be eligible for
18 appointment to serve more than two consecutive four-year terms.

19 (f) Forfeiture of membership.--A board member who fails to
20 attend three consecutive meetings shall forfeit his or her seat
21 unless the commissioner, upon written request from the member,
22 finds that the member shall be excused from a meeting because of
23 illness or the death of a family member.

24 (g) Compensation.--Each member of the board, except the
25 commissioner, shall receive \$60 per diem when actually attending
26 to the work of the board. Members shall also receive reasonable
27 traveling, hotel and other necessary expenses incurred in the
28 performance of their duties in accordance with Commonwealth
29 regulations.

30 (h) Forfeiture for nonattendance.--A public member who fails

1 to attend two consecutive statutorily mandated training seminars
2 in accordance with section 813(e) of the act of April 9, 1929
3 (P.L.177, No.175), known as The Administrative Code of 1929,
4 shall forfeit his or her seat unless the commissioner, upon
5 written request from the public member, finds that the public
6 member should be excused from a meeting because of illness or
7 the death of a family member.

8 (i) Quorum.--A majority of the members serving in accordance
9 with law shall constitute a quorum for purposes of conducting
10 the business of the board. Except for automatic suspensions, a
11 member may not be counted as part of a quorum or vote on any
12 issue unless he or she is physically in attendance at the
13 meeting.

14 (j) Meetings.--The board shall meet at least four times a
15 year in Harrisburg.

16 (k) Notice.--Reasonable notice of all meetings shall be
17 given in conformity with the act of July 3, 1986 (P.L.388,
18 No.84), known as the Sunshine Act.

19 (l) Operating procedures.--The board shall meet within 30
20 days after the appointment of initial members and set up
21 operating procedures and an application form for licensing
22 electrical contractors. It shall be the responsibility of the
23 board to circulate these forms and educate the public to the
24 requirements of licensing in order to hold oneself out as a
25 licensed electrical contractor within this Commonwealth.

26 Section 4. Powers and functions of board.

27 The board shall have the following powers:

28 (1) To pass upon the qualifications of applicants for
29 licenses and reciprocal licenses, and to adopt and revise
30 rules and regulations requiring applicants to pass

1 examinations relating to their qualifications as a
2 prerequisite to the issuance of a license.

3 (2) To adopt and, from time to time, revise such rules
4 and regulations as may be necessary to carry into effect
5 provisions of this act. Such regulations may include, but
6 shall not be limited to, standards of professional practice
7 for licensed electrical contractors in Pennsylvania.

8 (3) To examine for, deny, approve, issue, revoke,
9 suspend or renew licenses of electrical contractors pursuant
10 to this act and to conduct hearings in connection therewith.

11 (4) To conduct hearings upon complaints concerning
12 violations of the provisions of this act and the rules and
13 regulations adopted pursuant to this act and seek the
14 prosecution and enjoinder of all such violations.

15 (5) To expend moneys necessary to the proper carrying
16 out of its assigned duties.

17 (6) To license any individual without examination who,
18 at the time application is filed, holds a license issued by
19 any other state of the United States, provided that state
20 issues a license under similar restrictions, and under
21 similar conditions, grants reciprocal licensure without
22 examination to electrical contractors duly licensed in this
23 Commonwealth.

24 (7) To submit annually a report, to the Professional
25 Licensure Committee of the House of Representatives and the
26 Consumer Protection and Professional Licensure Committee of
27 the Senate, containing a description of the complaints
28 received, status of the cases, board action which has been
29 taken and length of time from the initial complaint to final
30 board resolution.

(8) To submit annually to the Appropriation Committees of the House of Representatives and the Senate, 15 days after the Governor has submitted his budget to the General Assembly, a copy of the budget request for the upcoming fiscal year which the board previously submitted to the Department of State.

Section 5. License required.

After the effective date of this act, no person shall perform electrical contracting services unless such person has obtained a license from the board. The person so licensed shall assume full responsibility for all of the electrical work performed under his or her supervision, in accordance with recognized safety standards.

Section 6. Qualifications for license.

No person shall be granted an electrical contractor's license unless he or she submits proof satisfactory to the board that:

(1) He or she has been employed or engaged in the business of electrical construction and installation or has equivalent practical experience for a period of not less than five years preceding the time of such application, or shall otherwise establish, pursuant to regulations promulgated by the board, that he or she has the necessary education and experience to take the examination for a license.

(2) He or she has passed an examination duly adopted by the board.

(3) His or her application has been accompanied by an application fee specified by regulation.

(4) He or she has not been convicted of a felony under the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, or of an

1 offense under the laws of another jurisdiction, which, if
2 committed in this Commonwealth, would be a felony under The
3 Controlled Substance, Drug, Device and Cosmetic Act, unless:

4 (i) at least ten years have elapsed from the date of
5 conviction;

6 (ii) the applicant satisfactorily demonstrates to
7 the board that he or she has made significant progress in
8 personal rehabilitation since the conviction, such that
9 licensure of the applicant should not be expected to
10 create a substantial risk of harm to the health and
11 safety of the public or a substantial risk of further
12 criminal violations; and

13 (iii) the applicant otherwise satisfies the
14 qualifications contained in or authorized by this act. As
15 used in this subparagraph, the term "convicted" shall
16 include a judgment, an admission of guilt or a plea of
17 nolo contendere.

18 Section 7. Issuance of license.

19 The board shall issue a license to each person who meets the
20 licensure requirements of this act.

21 Section 8. Exemption from examination.

22 The requirements of section 6(2) shall not apply and a
23 license shall be issued without examination to any person who
24 has submitted an application for license, accompanied by the
25 required fee, within two years after the effective date of this
26 act, who is a resident of this Commonwealth, who has submitted
27 proof of his or her being employed or engaged in the business of
28 electrical contracting within this Commonwealth for a period of
29 at least six years prior to the effective date of this act and
30 whose principal business for at least two years immediately

1 preceding the date of application has been that of an electrical
2 contractor.

3 Section 9. Refusal, suspension and revocation of license.

4 (a) Grounds.--The board may refuse, suspend, revoke, limit
5 or restrict a license or reprimand a licensee for any of the
6 following:

7 (1) Securing a license by fraud, deceit or
8 misrepresentation, or willfully deceiving an agent of the
9 board.

10 (2) Being unfit or unable to engage in electrical
11 contracting because of the use of alcoholic beverages,
12 controlled substances or any other substance which impairs
13 the intellect or judgment to such an extent as to impair the
14 performance of professional duties.

15 (3) Engaging in false, deceptive or fraudulent business
16 activities, or in misleading advertising practices.

17 (4) Violating any provision of this act or regulation of
18 the board.

19 (5) Committing an act of gross negligence or
20 incompetence or knowingly authorizing such an act by his or
21 her employee.

22 (6) Failing to properly supervise employees in
23 compliance with the recognized electrical safety standards of
24 the National Electrical Code then in effect and the standards
25 of the municipality in which the work is performed, or
26 knowingly authorizing an unlicensed person to assume
27 responsibility for supervisory work.

28 (7) Failing to secure an inspection of electrical
29 construction as required by law.

30 (8) Failing to perform electrical construction in

1 conformance with standards of the National Electrical Code
2 then in effect and the standards, if any, of the municipality
3 wherein the work is performed.

4 (9) Being convicted of a felony in a Federal court or
5 the courts of this Commonwealth or any other state, territory
6 or country.

7 (10) Being convicted of a misdemeanor related to the
8 practice of electrical contracting in the courts of this
9 Commonwealth or any other state or territory. As used in this
10 section, the term "convicted" includes a finding or verdict
11 of guilt, an admission of guilt or a plea of nolo contendere,
12 or receiving probation without verdict, disposition in lieu
13 of trial or an accelerated rehabilitative disposition in the
14 disposition of felony charges.

15 (11) Having a license to perform electrical contracting
16 suspended, revoked or refused or receiving other disciplinary
17 action by the proper licensing authority of any other state.

18 (b) Board action.--When the board finds that the license or
19 application for license of any person may be refused, revoked,
20 restricted or suspended under the terms of subsection (a), the
21 board may:

22 (1) Deny the application for a license.

23 (2) Administer a public reprimand.

24 (3) Revoke, suspend, limit or otherwise restrict a
25 license as determined by the board.

26 (4) Suspend enforcement of its findings thereof and
27 place a licensee on probation with the right to vacate the
28 probationary order for noncompliance.

29 (5) Restore a suspended license and impose any
30 disciplinary or corrective measure which it might originally

1 have imposed.

2 (c) Hearing.--All actions of the board shall be taken
3 subject to the right of notice, hearing and adjudication and the
4 right of appeal therefrom in accordance with 2 Pa.C.S. (relating
5 to administrative law and procedure).

6 (d) Automatic suspension.--A license issued under this act
7 shall automatically be suspended upon the legal commitment of a
8 licensee to an institution because of mental incompetence from
9 any cause upon filing with the board a certified copy of such
10 commitment, or for conviction of a felony under the act of April
11 14, 1972 (P.L.233, No.64), known as The Controlled Substance,
12 Drug, Device and Cosmetic Act, or conviction of an offense under
13 the laws of another jurisdiction, which, if committed in this
14 Commonwealth, would be a felony under The Controlled Substance,
15 Drug, Device and Cosmetic Act. As used in this section, the term
16 "conviction" shall include a judgment, an admission of guilt or
17 a plea of nolo contendere. Automatic suspension under this
18 section shall not be stayed pending an appeal of conviction.
19 Restoration of such license shall be made as provided in this
20 act for revocation or suspension of such license.

21 Section 10. Reinstatement of license.

22 Unless otherwise ordered to do so by Commonwealth Court or an
23 appeal therefrom, the board shall not reinstate a revoked
24 license. Any person whose license has been revoked may apply for
25 reinstatement, after a period of at least five years, but must
26 meet all of the licensing qualifications of this act, including
27 the examination requirement, if he or she desires to practice at
28 any time after the revocation.

29 Section 11. Reporting of multiple licensure.

30 Any licensed electrical contractor of this Commonwealth who

1 is also licensed by any other state shall report this
2 information to the board on the biennial renewal application.
3 Any disciplinary action taken by any other state shall be
4 reported to the board on the biennial renewal application, or
5 within 90 days of disposition, whichever is sooner. Multiple
6 licensure shall be noted by the board on the licensee's record,
7 and such state shall be notified by the board of any
8 disciplinary actions taken against the licensee in this
9 Commonwealth.

10 Section 12. Surrender of suspended or revoked license.

11 The board shall require a person whose license has been
12 suspended or revoked to return the license in such manner as the
13 board directs. Failure to do so shall be a misdemeanor of the
14 third degree.

15 Section 13. Death or disability of licensed electrical
16 contractor.

17 The board shall promulgate regulations establishing the
18 conditions under which a business may continue to provide
19 contracted services in the event of the death, illness or
20 disability of the licensed electrical contractor previously
21 responsible for the work of the business, consistent with the
22 provisions of section 5.

23 Section 14. Transferability of license.

24 No license issued under this act shall be assignable or
25 transferable.

26 Section 15. Powers of municipalities.

27 (a) Municipal ordinances preserved.--Nothing in this act
28 shall supersede the power of any municipality to inspect
29 electrical work or equipment or to regulate the manner in which
30 electrical work shall be done, and to levy lawful taxes and

1 fees, but no municipality shall require any electrical
2 contractor licensed under this act to obtain a municipal license
3 to engage in electrical contracting in the municipality;
4 provided, however, that nothing herein is intended to preclude
5 municipalities from denying or revoking local permits for
6 failure to comply with local ordinances not inconsistent with
7 this act or regulations of the board.

8 (b) Failure to comply with local ordinance.--Any licensee
9 who willfully fails to comply with any municipal ordinance
10 concerning the inspection of electrical work shall be subject to
11 disciplinary proceedings under this act.

12 Section 16. Exempt work or construction.

13 (a) Exemptions enumerated.--Electrical work or construction
14 which is performed on the following facilities or which is by or
15 for the following entities shall not be included within the
16 business of electrical contracting so as to require a license
17 under this act:

18 (1) Minor repair work, such as replacement of lamps and
19 fuses, existing wall switches, plug-in receptacles on
20 existing outlets and sockets on existing incandescent
21 fixtures.

22 (2) The connection of portable electrical appliances to
23 suitable permanently installed receptacles.

24 (3) The testing, servicing or repairing of electrical
25 equipment or apparatus.

26 (4) Electrical work in mines or on ships, railway cars,
27 elevators, escalators or automotive equipment.

28 (5) Electrical work done by or for a public utility,
29 cooperative or municipality, when such work is a part of the
30 plant or services used in the generation, supplying,

1 transmission and distribution of electricity or in the
2 provision of communication service to the public.

3 (6) A railway utility in the exercise of its functions
4 as a utility and located in or on buildings or premises used
5 exclusively by the utility.

6 (7) Commercial radio and television transmission
7 equipment.

8 (8) Construction by any branch of the Federal
9 Government.

10 (9) Any work with a load potential not regulated by the
11 National Electrical Code.

12 (10) Repair, manufacturing and maintenance work on
13 premises occupied by a firm or corporation and performed by a
14 regular employee who is a qualified journeyman electrician.

15 (11) Installation, repair or maintenance performed by
16 regular employees of the Commonwealth, or of a political
17 subdivision or municipal authority, on the premises owned or
18 occupied by the Commonwealth, political subdivision or
19 authority.

20 (12) The maintaining, installing or connecting of
21 automatic oil, gas or coal burning equipment, heat pumps or
22 similar heating equipment, or gasoline or diesel oil
23 dispensing equipment, and the lighting in connection
24 therewith, to a supply of adequate size at the load site of
25 the distribution board.

26 (13) Work performed by a person on a building that is
27 owner-occupied solely as a residence for himself or herself,
28 but limited to one single family, or for a member or members
29 of his or her immediate family.

30 (14) Work performed on the residence and other buildings

on premises dedicated to an agricultural use, by a person who owns and resides on the premises, or by a member or members of his or her immediate family.

(b) Other exemptions.--The board may also promulgate regulations to exempt from this act other electrical activities of like character.

Section 17. Penalties.

(a) Criminal penalty.--A person who violates this act commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of up to \$1,000 or to imprisonment for not more than 90 days, or both.

(b) Civil penalty.--In addition to any other civil remedy or criminal penalty provided for in this act, the board, by a vote of the majority of the maximum number of the authorized membership of the board as provided by law, or by a vote of the majority of the duly qualified and confirmed membership or a minimum of three members, whichever is greater, may levy a civil penalty of up to \$1,000 on any current licensee who violates any provision of this act or on any person who holds himself or herself out as a licensed electrical contractor without being so licensed pursuant to this act. The board shall levy this penalty only after affording the accused party the opportunity for a hearing, as provided in 2 Pa.C.S. (relating to administrative law and procedure).

(c) Disposition.--All fines and civil penalties imposed in accordance with this section shall be paid into the Professional Licensure Augmentation Account.

Section 18. License renewal; records and fees.

(a) Renewal term.--The renewal of a license shall be on a biennial basis.

1 (b) Records.--A record of all persons licensed to practice
2 as electrical contractors in this Commonwealth shall be kept in
3 the office of the board and shall be open to public inspection
4 and copying upon payment of a nominal fee for copying the
5 record.

6 (c) Fees.--

7 (1) All fees required pursuant to this act shall be
8 fixed by the board by regulation and shall be subject to the
9 act of June 25, 1982 (P.L.633, No.181), known as the
10 Regulatory Review Act. If the revenues raised by fees, fines
11 and civil penalties imposed pursuant to this act are not
12 sufficient to meet expenditures over a two-year period, the
13 board shall increase those fees by regulation so that the
14 projected revenues will meet or exceed projected
15 expenditures.

16 (2) If the Bureau of Professional and Occupational
17 Affairs determines that the fees established by the board
18 pursuant to paragraph (1) are inadequate to meet the minimum
19 enforcement efforts required by this act, then the bureau,
20 after consultation with the board and subject to the
21 Regulatory Review Act, shall increase the fees by regulation
22 in an amount so that adequate revenues are raised to meet the
23 required enforcement effort.

24 Section 19. Subpoenas.

25 (a) Power to issue.--The board shall have the authority to
26 issue subpoenas, upon application of an attorney responsible for
27 representing the Commonwealth in disciplinary matters before the
28 board, for the purpose of investigating alleged violations of
29 disciplinary provisions administered by the board. The board
30 shall have the power to subpoena witnesses, to administer oaths,

1 to examine witnesses and to take such testimony or compel the
2 production of such books, records, papers and documents as it
3 may deem necessary or proper in, and pertinent to, any
4 proceeding, investigation or hearing held or had by it. Client
5 records may not be subpoenaed without consent of the client or
6 without order of a court of competent jurisdiction on a showing
7 that the records are reasonably necessary for the conduct of the
8 investigation. The court may impose such limitations on the
9 scope of the subpoena as are necessary to prevent unnecessary
10 intrusion into client confidential information. The board is
11 authorized to apply to Commonwealth Court to enforce its
12 subpoenas.

13 (b) Notification of board.--An attorney responsible for
14 representing the Commonwealth in disciplinary matters before the
15 board shall notify the board immediately upon receiving
16 notification of an alleged violation of this act. The board
17 shall maintain current records of all reports of alleged
18 violations and periodically review the records for the purpose
19 of determining that each alleged violation has been resolved in
20 a timely manner.

21 Section 20. Unlawful practice.

22 (a) Unlawful practice prohibited.--It shall be unlawful for
23 any person to hold himself or herself out as a licensed
24 electrical contractor without possessing a valid, unexpired,
25 unrevoked and unsuspended license issued under this act.

26 (b) Injunction.--Unlawful practice may be enjoined by the
27 courts upon petition of the board. In any proceeding under this
28 section, it shall not be necessary to show that any person is
29 individually injured by the actions complained of. If the court
30 finds that the respondent has violated this section, it shall

1 enjoin him or her from so practicing until he or she has been
2 duly licensed. Procedure in such cases shall be the same as in
3 any other injunction suit.

4 (c) Remedy cumulative.--The injunctive remedy provided in
5 this section shall be in addition to any other civil or criminal
6 prosecution and punishment.

7 Section 21. Appropriation.

8 The sum of \$85,000, or as much thereof as may be necessary,
9 is hereby appropriated from the Professional Licensure
10 Augmentation Account within the General Fund to the Bureau of
11 Professional and Occupational Affairs in the Department of
12 State, for the payment of costs of processing licenses and
13 renewals, for the operation of the board and for other general
14 costs of the bureau operations relating to this act. The
15 appropriation granted shall be repaid by the board within three
16 years of the beginning of issuance of licenses by the board.

17 Section 22. Severability.

18 The provisions of this act are severable. If any provision of
19 this act or its application to any person or circumstance is
20 held invalid, the invalidity shall not affect other provisions
21 or applications of this act which can be given effect without
22 the invalid provision or application.

23 Section 23. Sunset.

24 The State Board of Electrical Contractors shall be subject to
25 evaluation and review, termination, reestablishment and
26 continuation in accordance with the provisions of the act of
27 December 22, 1981 (P.L.508, No.142), known as the Sunset Act.

28 Section 24. Effective date.

29 This act shall take effect as follows:

30 (1) Sections 5 and 20 of this act shall take effect in

1 24 months.

2 (2) The remainder of this act shall take effect in 90
3 days.