

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 660 Session of
2007INTRODUCED BY ERICKSON, FONTANA, GREENLEAF AND BOSCOLA,
MARCH 29, 2007SENATOR TOMLINSON, CONSUMER PROTECTION AND PROFESSIONAL
LICENSURE, AS AMENDED, OCTOBER 2, 2007

AN ACT

1 Providing for plumbing contractors licensure; establishing the
2 State Board of Plumbing Contractors and providing for its
3 powers and duties; conferring powers and imposing duties on
4 the Department of Labor and Industry; establishing fees,
5 fines and civil penalties; CREATING THE PLUMBING CONTRACTORS
6 LICENSURE ACCOUNT; and making an appropriation. <—

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18 SECTION 2104. EFFECTIVE DATE.

<—

19 The General Assembly of the Commonwealth of Pennsylvania
20 hereby enacts as follows:

21 CHAPTER 1

22 PRELIMINARY PROVISIONS

23 Section 101. Short title.

24 This act shall be known and may be cited as the Plumbing
25 Contractors Licensure Act.

26 Section 102. Definitions.

27 The following words and phrases when used in this act shall
28 have the meanings given to them in this section unless the
29 context clearly indicates otherwise:

30 "Apprentice plumber." An individual who is registered as an

1 apprentice under the act of July 14, 1961 (P.L.604, No.304),
2 known as The Apprenticeship and Training Act, and who is
3 licensed by the State Board of Plumbing Contractors as an
4 individual whose principle occupation is learning and assisting
5 in the performance of plumbing services.

6 "Board." The State Board of Plumbing Contractors.

7 "Conviction." The term includes a judgment, an admission of
8 guilt or a plea of nolo contendere.

9 "Department." The Department of Labor and Industry of the
10 Commonwealth.

11 "Journeyman plumber." An individual who is licensed by the
12 State Board of Plumbing Contractors to assist a master plumber
13 with the performance of plumbing services.

14 "Master plumber" or "licensed plumbing contractor." An
15 individual who has been licensed by the State Board of Plumbing
16 Contractors and who is authorized to perform plumbing services
17 and to supervise plumbing services provided by an apprentice
18 plumber or a journeyman plumber.

19 "Minor repairs." The repair of an existing plumbing fixture,
20 including the replacement of faucets or valves or parts of
21 faucets or valves, the clearance of stoppages, the stopping of
22 leaks without replacement of water, drainage or vent piping, the
23 relieving of frozen pipes or other minor replacement or repair
24 of existing plumbing fixtures.

25 "Plumbing services." The installation, maintenance,
26 extension, erection, repair or alteration of piping, plumbing
27 fixtures, plumbing appliances and plumbing apparatus in
28 connection with sanitary drainage, storm facilities and building
29 sewers to the facility's or sewer's final connection to an
30 approved point of disposal, venting systems, public and private

1 water supply systems of a premises or building within the
2 property line and to the final connection with an approved
3 supply system. The term also includes the installation,
4 maintenance, extension, erection, repair or alteration of
5 piping, plumbing fixtures and plumbing apparatus used for storm
6 facilities and building sewers, liquid waste or sewage.

7 CHAPTER 3

8 BOARD

9 Section 301. State Board of Plumbing Contractors.

10 (a) Establishment.--There is hereby established the State
11 Board of Plumbing Contractors within the department.

12 (b) Composition.--The board shall consist of the following:

13 (1) The Secretary of Labor and Industry or a designee.

14 (2) Two public members.

15 (3) Six professional members. Professional members shall
16 have been actively engaged in providing plumbing services in
17 this Commonwealth for at least ten years immediately
18 preceding appointment. Two professional members shall reside
19 in a county of the first class. One professional member shall
20 reside in a county of the second class. Three professional
21 members shall be subject to collective bargaining agreements.
22 Three professional members shall not be subject to collective
23 bargaining agreements. Except as set forth in subsection (f),
24 professional members shall be licensed under this act as
25 master plumbers.

26 (c) Meeting.--The board shall meet within 30 days after the
27 appointment of its first members and shall set up operating
28 procedures and develop application forms for licensure. It shall
29 be the responsibility of the board to circulate the forms and
30 educate the public regarding the requirements of this act and

1 providing plumbing services in this Commonwealth.

2 (d) Term of membership.--Professional and public members
3 shall be appointed by the Governor with the advice and consent
4 of the Senate. Professional and public members shall be citizens
5 of the United States and residents of this Commonwealth. Except
6 as provided in subsection (e), professional and public members
7 shall serve a term of four years, or until a successor has been
8 appointed and qualified but in no event longer than six months
9 beyond the four-year period. In the event that a member dies or
10 resigns or is otherwise disqualified during the term of office,
11 a successor shall be appointed in the same way and with the same
12 qualifications and shall hold office for the remainder of the
13 unexpired term. A professional or public member shall not be
14 eligible to hold more than two consecutive terms.

15 (e) Appointments.--For professional and public members
16 initially appointed to the board pursuant to this act, the term
17 of office shall be as follows:

18 (1) Five members shall serve for a term of four years.

19 (2) Two members shall serve for a term of three years.

20 (3) One member shall serve for a term of two years.

21 (f) Professional members and initial appointments.--A
22 professional member initially appointed to the board pursuant to
23 this act need not be licensed at the time of appointment but, at
24 the time of appointment, must have satisfied eligibility
25 requirements for licensure as provided in this act.

26 (g) Quorum.--A majority of the members of the board shall
27 constitute a quorum. Except for temporary and automatic
28 suspensions under section 705, a member may not be counted as
29 part of a quorum or vote on any issue unless the member is
30 physically in attendance at the meeting.

1 (h) Chairman.--The board shall select annually a chairman
2 from among its members. ~~The board, with the approval of the~~ <—
3 ~~commissioner, shall select and fix the compensation of an~~
4 ~~executive secretary who shall be responsible for the day to day~~
5 ~~operation of the board and administration of the board's~~
6 ~~activities.~~

7 (i) Expenses.--With the exception of the ~~commissioner~~ <—
8 SECRETARY, each member of the board shall receive \$60 per diem <—
9 when actually attending to the work of the board. A member shall
10 also receive the amount of reasonable traveling, hotel and other
11 necessary expenses incurred in the performance of the member's
12 duties in accordance with Commonwealth regulations.

13 (j) Forfeiture.--A professional or public member who fails
14 to attend three consecutive meetings shall forfeit the member's
15 seat unless the ~~commissioner~~ SECRETARY, upon written request <—
16 from the member, finds that the member should be excused from a
17 meeting because of illness or the death of a family member.

18 ~~(k) Training seminars. A public member who fails to attend~~ <—
19 ~~two consecutive statutorily mandated training seminars in~~
20 ~~accordance with section 813(e) of the act of April 9, 1929~~
21 ~~(P.L.177, No.175), known as The Administrative Code of 1929,~~
22 ~~shall forfeit the member's seat unless the commissioner, upon~~
23 ~~written request from the public member, finds that the public~~
24 ~~member should be excused from a meeting because of illness or~~
25 ~~the death of a family member.~~

26 (K) (RESERVED). <—

27 (l) Frequency of meetings.--The board shall meet at least
28 four times a year in the City of Harrisburg and at such
29 additional times as may be necessary to conduct the business of
30 the board.

1 Section 302. Powers and duties of board.

2 (a) General rule.--The board shall have the following powers
3 and duties:

4 (1) To provide for and regulate the licensing of
5 individuals engaged in providing plumbing services.

6 (2) To issue, renew, reinstate, fail to renew, suspend
7 and revoke licenses as provided for in this act.

8 (3) To administer and enforce the provisions of this
9 act.

10 (4) To ~~contract with a~~ APPROVE professional testing <—
11 ~~organization~~ ORGANIZATIONS to administer tests to qualified <—
12 applicants for licensure as provided in this act. Written,
13 oral or practical examinations shall be prepared and
14 administered by a qualified and approved professional testing
15 organization ~~in the manner prescribed for written~~ <—
16 ~~examinations by section 812.1 of the act of April 9, 1929~~
17 ~~(P.L.177, No.175), known as The Administrative Code of 1929~~
18 APPROVED BY THE BOARD. <—

19 (5) To investigate applications for licensure and to
20 determine the eligibility of an individual applying for
21 licensure.

22 (6) To promulgate and enforce regulations, not
23 inconsistent with this act, as necessary only to carry into
24 effect the provisions of this act. This paragraph includes
25 the setting of fees. ~~and setting the amount of liability~~ <—
26 ~~insurance required by licensed plumbing contractors.~~
27 Regulations shall be adopted in conformity with the
28 provisions of the act of July 31, 1968 (P.L.769, No.240),
29 referred to as the Commonwealth Documents Law, and the act of
30 June 25, 1982 (P.L.633, No.181), known as the Regulatory

1 Review Act.

2 (7) To keep minutes and records of all its ~~transactions~~ <—
3 ~~and~~ proceedings.

4 (8) To keep and maintain a registry of individuals
5 licensed by the board. The board shall provide access to the
6 registry to the public, including making the registry
7 available ~~via electronic means~~ ON A PUBLICLY ACCESSIBLE <—
8 INTERNET WEBSITE.

9 (9) To submit annually to the department an estimate of
10 financial requirements of the board for its administrative,
11 legal and other expenses.

12 (10) To submit annually a report to the Consumer
13 Protection and Professional Licensure Committee of the Senate
14 and the Professional Licensure Committee of the House of
15 Representatives. The report shall include a description of
16 the types of complaints received, status of cases, the action
17 which has been taken and the length of time from initial
18 complaint to final resolution.

19 (11) To submit annually to the Appropriations Committee
20 of the Senate and the Appropriations Committee of the House
21 of Representatives, 15 days after the Governor has submitted
22 a budget to the General Assembly, a copy of the budget
23 request for the upcoming fiscal year which the board
24 previously submitted to the department.

25 CHAPTER 5

26 LICENSURE

27 Section 501. Licensure.

28 (a) General rule.--An individual may not provide plumbing
29 services, offer himself for employment as an individual who may
30 provide plumbing services or hold himself out as an individual

1 authorized to perform plumbing services unless licensed by the
2 board.

3 (b) Business entities.--An individual, corporation,
4 partnership, firm or other entity shall not:

5 (1) Employ an individual to provide plumbing services or
6 direct an individual to provide plumbing services unless the
7 individual is licensed under this act.

8 (2) Use the term "licensed plumbing contractor" in
9 connection with the entity unless at least one employee or
10 the owner of the entity is licensed as a master plumber in
11 accordance with this act.

12 (c) Title.--An individual who holds a license as a master
13 plumber or is maintained on inactive status pursuant to section
14 505(b) shall have the right to use the title "licensed plumbing
15 contractor" and the abbreviation "L.P.C." No other individual
16 shall use the title "licensed plumbing contractor" or the
17 abbreviation "L.P.C." Except as provided in subsection (d), no
18 individual shall hold himself out as being authorized to provide
19 plumbing services.

20 (d) Exceptions.--The following exceptions apply:

21 (1) A journeyman plumber or an apprentice plumber may
22 hold himself out as being authorized to perform plumbing
23 services if the journeyman plumber or the apprentice plumber
24 work under the direction and supervision of a master plumber.

25 (2) An individual ~~who performs minor repairs~~ WHO IS NOT <—
26 IN THE BUSINESS OF PROVIDING PLUMBING SERVICES AND WHO
27 PERFORMS MINOR REPAIRS IN A RESIDENCE shall not be required
28 to obtain a license under this act.

29 (e) Responsibility.--A licensed plumbing contractor shall
30 assume full responsibility for inspection of plumbing services

1 irrespective of whether the plumbing services were performed by
2 the licensed plumbing contractor or by a journeyman plumber or
3 an apprentice plumber working under the direction and
4 supervision of the licensed plumbing contractor. In addition,
5 the licensed plumbing contractor shall direct and supervise
6 plumbing services performed by a journeyman plumber or an
7 apprentice plumber. This subsection includes the responsibility
8 of the licensed plumbing contractor to ensure conformance with
9 safety standards and applicable plumbing codes, including
10 plumbing codes for first class counties and second class
11 counties.

12 Section 502. Qualifications.

13 (a) Master plumber.--To be eligible to apply for licensure
14 as a master plumber, an applicant must fulfill the following
15 requirements:

16 (1) Be of good moral character.

17 (2) Be at least 18 years of age.

18 (3) Submit proof satisfactory to the board that the
19 applicant has provided plumbing services for not less than
20 five years prior to application. Of the five years'

21 experience, FIVE YEARS SHALL HAVE BEEN AS A MASTER PLUMBER OR <—

22 one YEAR shall have been as a journeyman plumber and four <—

23 YEARS shall have been as an apprentice plumber. In lieu of <—

24 the five years' experience provided in this paragraph, an

25 applicant may submit proof OF THE APPLICANT'S EXPERIENCE <—

26 satisfactory to the board, ~~as established by regulation of~~ <—

27 ~~the board,~~ that the individual has sufficient training and

28 experience to sit for the examination. ~~In no case shall an~~ <—

29 ~~individual sit for the examination without meeting one of the~~

30 ~~requirements of this paragraph.~~

1 (4) Pay the fee set by the board.

2 (5) Pass the examination provided by the board.

3 ~~(6) Provide satisfactory proof to the board of the~~ <—
4 ~~acquisition of professional liability insurance in the amount~~
5 ~~set by the board.~~

6 (6) PROVIDE A CURRENT CERTIFICATE OF LIABILITY INSURANCE <—
7 IN THE AMOUNT OF \$500,000.

8 (b) Journeyman plumber.--To be eligible for licensure as a
9 journeyman plumber, an applicant must fulfill the following
10 requirements:

11 (1) Be of good moral character.

12 (2) Be at least 18 years of age.

13 (3) Submit proof satisfactory to the board that the
14 applicant has provided plumbing services for not less than
15 four years as A JOURNEYMAN OR an apprentice plumber or has <—
16 served 8,000 hours as an apprentice plumber and has
17 satisfactorily completed at least 576 hours of related
18 technical education at an accredited school. ~~In no case shall~~ <—
19 ~~an individual be allowed to sit for the examination without~~
20 ~~meeting one of the requirements of this paragraph.~~

21 (4) Pay the fee set by the board.

22 (5) Pass the examination provided by the board.

23 (c) Additional requirement.--In addition to passing the
24 examination set forth in subsection (a)(5) or (b)(5), an
25 individual applying for licensure as a master plumber or a
26 journeyman plumber who provides or will provide plumbing
27 services in either a first class county or a second class county
28 must pass an examination ~~provided by the board~~ on the plumbing <—
29 code of the first class county or the second class county, as
30 appropriate.

1 (d) Apprentice plumber.--To be eligible for licensure as an
2 apprentice plumber, an applicant shall fulfill the following
3 requirements:

4 (1) Be of good moral character.

5 (2) Be at least 16 years of age.

6 (3) Register with the Department of Labor and Industry
7 as set forth in the act of July 14, 1961 (P.L.604, No.304),
8 known as The Apprenticeship and Training Act. The apprentice
9 plumber shall submit proof of current registration to the
10 board.

11 (4) Pay the fee set by the board.

12 (e) Renewal of license of apprentice plumber.--In the case
13 of an apprentice plumber applying for renewal of a license where
14 registration under subsection (d)(3) has expired or otherwise
15 lapsed before the biennial renewal cycle will expire, the
16 apprentice plumber shall submit evidence satisfactory to the
17 board that the apprentice plumber has renewed registration TO
18 THE COUNCIL. Failure to notify the board within 30 days that
19 registration has expired or otherwise lapsed shall subject the
20 apprentice plumber to disciplinary action. In the case of an
21 apprentice plumber whose registration has expired or otherwise
22 lapsed, the license shall be immediately placed in inactive
23 status by the board. The board shall promulgate regulations in
24 order to carry out the provisions of this subsection, including
25 regulations setting forth the evidence necessary to demonstrate
26 renewal of registration.

27 (f) Waiver of examination.--Notwithstanding the provisions
28 of subsections (a)(5) and (b)(5), the board may grant a license
29 to an individual applying to become either a master plumber or a
30 journeyman plumber without examination if THE INDIVIDUAL MEETS

1 ALL OF THE FOLLOWING REQUIREMENTS:

2 (1) The individual applies within ~~180 days~~ ONE YEAR of <—
3 the effective date of this section.

4 (2) The individual meets the requirements of age and
5 character and pays the required fee.

6 (3) For an individual applying for a license as a master
7 plumber under this subsection, the individual submits proof
8 satisfactory to the board of ANY OF THE FOLLOWING: <—

9 (i) Five years of prior experience IMMEDIATELY <—
10 PRECEDING APPLICATION providing plumbing services within
11 this Commonwealth.

12 (ii) ~~Possession~~ FIVE CONSECUTIVE YEARS OF POSSESSION <—
13 of a current business license as a plumber from a
14 municipality or other agency recognized by THE RESPECTIVE <—
15 COUNTY AND the board WHERE APPLICABLE. <—

16 ~~(iii) Passage of an examination, acceptable to the~~ <—
17 ~~board, which tests knowledge of a plumbing code.~~

18 (III) SUCCESSFUL COMPLETION OF A TEST ADMINISTERED <—
19 BY THE RESPECTIVE COUNTY ON THE PLUMBING CODE OF EITHER
20 THE COUNTY OF THE FIRST CLASS OR A COUNTY OF THE SECOND
21 CLASS, AS APPROPRIATE TO WORKING AS A LICENSEE IN THOSE
22 SPECIFIC COUNTIES.

23 (4) For an individual applying for a license as a
24 journeyman plumber under this subsection, the individual
25 submits proof satisfactory to the board of:

26 (i) Four years of prior experience IMMEDIATELY <—
27 PRECEDING THE APPLICATION FOR LICENSURE providing
28 plumbing services under the ~~direction~~ SUPERVISION of an <—
29 individual licensed as a plumber by a municipality or
30 other agency recognized by the board.

1 ~~(ii) Passage of an examination, acceptable to the~~ <—
2 ~~board, which tests knowledge of a plumbing code.~~

3 (II) SUCCESSFUL COMPLETION OF A TEST ADMINISTERED BY <—
4 THE RESPECTIVE COUNTY ON THE PLUMBING CODE OF EITHER THE
5 COUNTY OF THE FIRST CLASS OR A COUNTY OF THE SECOND
6 CLASS, AS APPROPRIATE TO WORKING AS A LICENSEE IN THOSE
7 SPECIFIC COUNTIES.

8 (g) Convictions prohibited.--The board shall not issue a
9 license to an individual who has been convicted of a felonious
10 act prohibited by the act of April 14, 1972 (P.L.233, No.64),
11 known as The Controlled Substance, Drug, Device and Cosmetic
12 Act, or convicted of a felony relating to a controlled substance
13 in a court of law of the United States or any other state,
14 territory or country unless:

15 (1) At least ~~ten~~ FIVE years have elapsed from the date <—
16 of conviction.

17 (2) The individual satisfactorily demonstrates to the
18 board that he has made significant progress in personal
19 rehabilitation since the conviction such that licensure of
20 the individual should not be expected to create a substantial
21 risk of harm to the health and safety of the public or a
22 substantial risk of further criminal violations.

23 (3) The individual otherwise satisfies the
24 qualifications provided in this act. An individual's
25 statement on the application declaring the absence of a
26 conviction shall be deemed satisfactory evidence of the
27 absence of a conviction unless the board has some evidence to
28 the contrary.

29 Section 503. Continuing education.

30 (a) Regulations.--The board shall adopt, promulgate and

1 enforce rules and regulations consistent with the provisions of
2 this act establishing continuing education to be met by
3 individuals licensed as master plumbers and journeyman plumbers.
4 Regulations shall include any fees necessary for the board to
5 carry out its responsibilities under this section. The board may
6 waive all or part of the continuing education requirement for a
7 master plumber or a journeyman plumber who shows evidence
8 satisfactory to the board that the individual was unable to
9 complete the requirement due to illness, emergency, military
10 service or other hardship. All courses, materials, locations and
11 instructors shall be approved by the board. No credit shall be
12 given for a course in office management or practice building.

13 (b) Requirement.--Beginning with the licensure period
14 designated by regulation, an individual applying for renewal of
15 a license as a master plumber or a journeyman plumber shall be
16 required to obtain 10 hours of continuing education during the
17 two calendar years immediately preceding the application for
18 renewal.

19 Section 504. Plumbing contractors in other states.

20 (a) Reciprocity established.--Subject to subsections (b) and
21 (c), the board may issue a license without examination to an
22 individual who is licensed as a master plumber or journeyman
23 plumber in any other state, territory or possession of the
24 United States if all of the following requirements are met:

25 (1) The individual meets the requirements as to
26 character, ~~age and absence of convictions~~ AND AGE. <—

27 (2) The individual pays the required fee.

28 (3) The individual demonstrates to the satisfaction of
29 the board that the individual ~~either meets or exceeds the~~ <—

30 ~~Commonwealth~~ MEETS THE experience requirement for master <—

1 plumbers and journeyman plumbers, as appropriate.

2 (4) The individual provides evidence satisfactory to the
3 board that the individual has passed an examination IN <—
4 ANOTHER JURISDICTION demonstrating knowledge of a plumbing
5 code.

6 (b) Requirement.--For an individual to be eligible to apply
7 for a license as a master plumber or a journeyman plumber under
8 subsection (a), the other state, territory or possession of the
9 United States must provide an opportunity for reciprocal
10 licensure which is substantially similar to the opportunity
11 provided by the Commonwealth under this section.

12 (c) Counties of the first or second class.--An individual
13 applying for a license as a master plumber or journeyman plumber
14 under subsection (a) who provides or will provide plumbing
15 services in either a county of the first class or a county of
16 the second class must pass an examination ~~provided by the board~~ <—
17 ADMINISTERED BY THE RESPECTIVE COUNTY on the plumbing code of <—
18 either the county of the first class or the county of the second
19 class, as appropriate.

20 Section 505. Duration of license.

21 (a) Duration of license.--A license issued pursuant to this
22 act shall be on a biennial basis. The biennial expiration date
23 shall be established by ~~regulation of~~ the board. Application for <—
24 renewal of a license shall biennially be forwarded to an
25 individual holding a current license prior to the expiration
26 date of the current biennium. For individuals applying for
27 licensure as an apprentice plumber, the application form must
28 indicate whether registration as an apprentice under the act of
29 July 14, 1961 (P.L.604, No.304), known as The Apprenticeship and
30 Training Act, has expired or otherwise lapsed before the

1 biennial renewal cycle will expire.

2 (b) Inactive status.--An individual licensed under this act
3 may request an application for inactive status. The application
4 form may be completed and returned to the board. Upon receipt of
5 an application, the individual shall be maintained on inactive
6 status without fee and shall be entitled to apply for a
7 licensure renewal at any time. An individual who requests the
8 board to activate the license of the individual and who has been
9 on inactive status shall, prior to receiving an active license,
10 satisfy the requirements of the board's regulations regarding
11 continuing education and remit the required fee. In the case of
12 an apprentice plumber who is placed on inactive status pursuant
13 to section 502(e), the apprentice plumber shall provide evidence
14 to the board of renewal of registration before the board may
15 activate the license. The board shall promulgate regulations to
16 carry into effect the provisions of this subsection.

17 Section 506. Reporting of multiple licensure.

18 A licensee who is also licensed to perform plumbing services
19 in any other state, territory OR possession of the United States <—
20 ~~or country~~ shall report this information to the board on the <—
21 biennial registration application. Any disciplinary action taken
22 in another state, territory, possession of the United States or
23 country shall be reported to the board on the biennial
24 registration application or within 90 days of final disposition,
25 whichever is sooner. Multiple licensure shall be noted by the
26 board on the individual's record, and such state, territory,
27 possession or country shall be notified by the board of any
28 disciplinary action taken against the licensee in this
29 Commonwealth.

30 CHAPTER 7

ADMINISTRATION AND ENFORCEMENT

Section 701. Fees, fines and civil penalties.

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

(b) Fee increase.--If the department determines that the fees established by the board under subsection (a) are inadequate to meet the minimum enforcement efforts required by this act, then the department, after consultation with the board and subject to the Regulatory Review Act, shall increase the fees by regulation in an amount such that adequate revenues are raised to meet the required enforcement effort.

~~(c) Account. All fees, fines and civil penalties imposed in accordance with this act shall be paid to the department.~~

(C) ACCOUNT.--A RESTRICTED ACCOUNT IS HEREBY CREATED IN THE STATE TREASURY WHICH SHALL BE KNOWN AS THE PLUMBING CONTRACTORS LICENSURE ACCOUNT. BEGINNING JULY 1, 2008, AND THEREAFTER, ALL MONEYS COLLECTED BY THE STATE BOARD OF PLUMBING CONTRACTORS SHALL BE PAID INTO THE PLUMBING CONTRACTORS LICENSURE ACCOUNT. FUNDS IN THIS ACCOUNT ARE HEREBY APPROPRIATED UPON APPROVAL OF THE GOVERNOR FOR PAYMENT OF THE COSTS OF PROCESSING LICENSES AND RENEWALS AND FOR OTHER GENERAL COSTS OF BOARD OPERATIONS.

(d) Renewal fee.--The board may charge a fee, as set by the board by regulation, for licensure, for renewing licensure and for other ~~services of~~ ADMINISTRATIVE ACTIONS BY the board as

1 permitted by this act or by regulation.

2 Section 702. Violations.

3 (a) General rule.--An individual or the responsible officers
4 or employees of a corporation, partnership, firm or other entity
5 violating a provision of this act or a regulation of the board
6 commits a misdemeanor and shall, upon conviction, be sentenced
7 to pay a fine of not more than \$1,000 or to imprisonment for not
8 more than six months for the first violation. For the second and
9 each subsequent conviction, the person shall be sentenced to pay
10 a fine of not more than \$2,000 or to imprisonment for not less
11 than six months or more than one year, or both.

12 (b) Civil penalty.--In addition to any other civil remedy or
13 criminal penalty provided for in this act, the board, by a vote
14 of the majority of the maximum number of the authorized
15 membership of the board as provided by law or by a vote of the
16 majority of the duly qualified and confirmed membership or a
17 minimum of five members, whichever is greater, may levy a civil
18 penalty of up to ~~\$1,000~~ \$10,000 on any of the following: <—

19 (1) A licensee who violates a provision of this act.

20 (2) An individual who performs plumbing services in
21 violation of this act.

22 (3) An individual who holds himself out as an individual
23 authorized to perform plumbing services without being
24 properly licensed as provided in this act.

25 (4) The responsible officers or employees of a
26 corporation, partnership, firm or other entity violating a
27 provision of this act.

28 (c) Procedure.--The board shall levy the civil penalty set
29 forth in subsection (b) only after affording the accused the
30 opportunity for a hearing as provided in 2 Pa.C.S. (relating to

1 administrative law and procedure).

2 Section 703. Refusal, suspension or revocation of license.

3 (a) General rule.--The board may refuse TO ISSUE, suspend or <—
4 revoke a license in a case where the board finds:

5 (1) The licensee is OR HAS BEEN negligent or incompetent <—
6 in the performance of plumbing services.

7 (2) The licensee is OR HAS BEEN unable to perform <—
8 plumbing services with reasonable skill and safety by reason
9 of mental or physical illness or condition or physiological
10 or psychological dependence upon alcohol, hallucinogenic or
11 narcotic drugs or other drugs which tend to impair judgment
12 or coordination, so long as such dependence shall continue.
13 In enforcing this paragraph, the board shall, upon probable
14 cause, have authority to compel a licensee to submit to a
15 mental or physical examination as designated by it. After
16 notice, hearing, adjudication and appeal, failure of a
17 licensee to submit to such examination when directed shall
18 constitute an admission of the allegations unless failure is
19 due to circumstances beyond the licensee's control,
20 consequent upon which a default and final order may be
21 entered without the taking of testimony or presentation of
22 evidence. A licensee affected under this paragraph shall at
23 reasonable intervals be afforded the opportunity to
24 demonstrate that he can resume competent, safe and skillful
25 performance of plumbing services.

26 (3) The licensee has violated any of the provisions of
27 this act or a regulation of the board.

28 (4) The licensee has committed fraud or deceit in:
29 (i) the performance of plumbing services; or
30 (ii) securing licensure.

1 ~~(5) The licensee has been convicted of a felony or a~~ <—
2 ~~crime of moral turpitude or received probation without~~
3 ~~verdict, disposition in lieu of trial or an Accelerated~~
4 ~~Rehabilitative Disposition in the disposition of felony~~
5 ~~charges, in the courts of this Commonwealth, the United~~
6 ~~States or any other state, territory or possession of the~~
7 ~~United States or country.~~

8 (5) THE BOARD SHALL NOT ISSUE A LICENSE TO AN INDIVIDUAL <—
9 WHO HAS BEEN CONVICTED OF A FELONIOUS ACT PROHIBITED BY THE
10 ACT OF APRIL 14, 1972 (P.L.233, NO.64), KNOWN AS THE
11 CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC ACT, OR
12 CONVICTED OF A FELONY RELATING TO A CONTROLLED SUBSTANCE IN A
13 COURT OF LAW OF THE UNITED STATES OR ANY OTHER STATE,
14 TERRITORY OR COUNTRY UNLESS:

15 (I) AT LEAST FIVE YEARS HAVE ELAPSED FROM THE DATE
16 OF CONVICTION.

17 (II) THE INDIVIDUAL SATISFACTORILY DEMONSTRATES TO
18 THE BOARD THAT HE HAS MADE SIGNIFICANT PROGRESS IN
19 PERSONAL REHABILITATION SINCE THE CONVICTION SUCH THAT
20 LICENSURE OF THE INDIVIDUAL SHOULD NOT BE EXPECTED TO
21 CREATE A SUBSTANTIAL RISK OF HARM TO THE HEALTH AND
22 SAFETY OF THE PUBLIC OR A SUBSTANTIAL RISK OF FURTHER
23 CRIMINAL VIOLATIONS.

24 (III) THE INDIVIDUAL OTHERWISE SATISFIES THE
25 QUALIFICATIONS PROVIDED IN THIS ACT. AN INDIVIDUAL'S
26 STATEMENT ON THE APPLICATION DECLARING THE ABSENCE OF A
27 CONVICTION SHALL BE DEEMED SATISFACTORY EVIDENCE OF THE
28 ABSENCE OF A CONVICTION UNLESS THE BOARD HAS SOME
29 EVIDENCE TO THE CONTRARY.

30 (6) The licensee has had the licensee's license

1 suspended or revoked or has received other disciplinary
2 action by the proper licensing authority in another state,
3 territory or possession of the United States or country.

4 ~~(7) With respect to the performance of plumbing~~ <—
5 ~~services, the licensee has acted in such a manner as to~~
6 ~~present an immediate and clear danger to health or safety or~~
7 ~~property.~~

8 (7) (RESERVED). <—

9 (8) With respect to a master plumber, the master plumber
10 failed to properly direct and supervise a journeyman plumber
11 or apprentice plumber or failed to properly inspect plumbing
12 services. This paragraph includes failure to ensure
13 compliance with safety standards and applicable plumbing
14 codes.

15 ~~(9) The licensee possessed, used, acquired or~~ <—
16 ~~distributed a controlled substance.~~

17 ~~(10) The licensee has been guilty of unprofessional~~
18 ~~conduct. Unprofessional conduct shall include departure from~~
19 ~~or failing to conform to operating practices or professional~~
20 ~~standards embraced by the professional plumbing community in~~
21 ~~this Commonwealth, including those recognized by a~~
22 ~~municipality, the Federal Government or the Commonwealth. In~~
23 ~~a proceeding based on this paragraph, actual injury to a~~
24 ~~person or damage to property need not be established.~~

25 (9) (RESERVED). <—

26 (10) (RESERVED).

27 (11) The licensee falsely advertised or made misleading,
28 deceptive, untrue or fraudulent material representations
29 regarding licensure or in the performance of plumbing
30 services.

1 (12) Unless waived by the board in accordance with
2 section 503, the licensee failed to satisfy the continuing
3 education requirements of this act.

4 (b) Acts authorized.--When the board finds that the license
5 of an individual may be refused, revoked or suspended pursuant
6 to subsection (a), the board may:

7 (1) Deny the application for a license.

8 (2) Administer a public reprimand.

9 (3) Revoke, suspend, limit or otherwise restrict a
10 license.

11 (4) Suspend enforcement of its finding and place a
12 licensee on probation with the right to vacate the
13 probationary order for noncompliance.

14 (5) Restore or reissue, in its discretion, a suspended
15 license and impose any disciplinary or corrective measure
16 which it might originally have imposed.

17 Section 704. Suspensions and revocations.

18 A suspension or revocation shall be made only in accordance
19 with the regulations of the board and only by majority vote of
20 the members of the board after a full and fair hearing. An
21 action of the board shall be taken subject to the right of
22 notice, hearing and adjudication, and the right of appeal, in
23 accordance with the provisions of 2 Pa.C.S. (relating to
24 administrative law and procedure). The board, by majority action
25 and in accordance with its regulations, may reissue a license
26 which has been suspended. If a license has been revoked, the
27 board shall reissue a license only in accordance with section
28 706.

29 Section 705. Temporary and automatic suspensions.

30 (a) General rule.--A license issued under this act may be

1 temporarily suspended under circumstances determined by the
2 board to be an immediate and clear danger to public health or
3 safety or property. The board shall issue an order to that
4 effect without a hearing, but upon due notice, to the licensee
5 concerned at the licensee's last known address, which shall
6 include a written statement of all allegations against the
7 licensee. The provisions of section 704 shall not apply to
8 temporary suspension. The board shall commence formal action to
9 suspend, revoke or restrict the license of the individual as
10 otherwise provided for in this act. All actions shall be taken
11 promptly and without delay. Within 30 days following the
12 issuance of an order temporarily suspending a license, the board
13 shall conduct or cause to be conducted a preliminary hearing to
14 determine that there is a prima facie case supporting the
15 suspension. The individual whose license has been temporarily
16 suspended may be present at the preliminary hearing and may be
17 represented by counsel, cross-examine witnesses, inspect
18 physical evidence, call witnesses, offer evidence and testimony
19 and make a record of the proceedings. If it is determined that
20 there is not a prima facie case, the suspended license shall be
21 immediately restored. The temporary suspension shall remain in
22 effect until vacated by the board, but in no event longer than
23 180 days.

24 (b) Commitment of licensee.--A license issued under this act
25 shall automatically be suspended upon the legal commitment of a
26 licensee to an institution because of mental incompetency from
27 any cause upon filing with the board a certified copy of such
28 commitment, conviction of a felony under the act of April 14,
29 1972 (P.L.233, No.64), known as The Controlled Substance, Drug,
30 Device and Cosmetic Act, or conviction of an offense under the

1 laws of another jurisdiction, which, if committed in
2 Pennsylvania, would be a felony under The Controlled Substance,
3 Drug, Device and Cosmetic Act. Automatic suspension under this
4 subsection shall not be stayed pending an appeal of a
5 conviction. Restoration of the license shall be made as provided
6 in the case of revocation or suspension of a license.

7 Section 706. Reinstatement of license.

8 Unless ordered to do so by the Commonwealth Court or an
9 appeal therefrom, the board shall not reinstate the license of
10 an individual which has been revoked. An individual whose
11 license has been revoked may reapply for a license, after a
12 period of at least five years, but must meet all of the
13 licensing requirements of this act.

14 Section 707. Surrender of suspended or revoked license.

15 The board shall require an individual whose license has been
16 suspended or revoked to return the license in such manner as the
17 board directs. Failure to do so, and upon conviction thereof,
18 shall be a misdemeanor of the third degree.

19 Section 708. Injunction.

20 Whenever, in the judgment of the board, a person has engaged
21 in an act or practice which constitutes or will constitute a
22 violation of this act, the board or its agents may make
23 application to the appropriate court for an order enjoining such
24 act or practice. Upon a showing by the board that the person has
25 engaged or is about to engage in such act or practice, an
26 injunction, restraining order or such order, as may be
27 appropriate, ~~shall~~ MAY be granted by the court. The remedy by <—
28 injunction is in addition to any other civil or criminal
29 ~~prosecution and punishment~~ PENALTY. <—

30 Section 709. Subpoenas and oaths.

(b) Certain powers preserved.--Nothing in this act shall be construed to prevent a municipality from doing any of the following:

(1) Inspecting plumbing services or regulating the manner in which plumbing services are performed in compliance with the current Commonwealth plumbing code or applicable municipal plumbing code.

(2) Levying lawful taxes and fees.

(3) Requiring the purchase of a business privilege license that is unrelated to demonstrating competence in the performance of plumbing services.

(4) Denying or revoking local permits for failure to comply with ordinances.

Section 2102. Appropriation.

The sum of \$85,000, or as much thereof as may be necessary, is hereby appropriated to the Department of Labor and Industry for the payment of costs associated with processing licenses and renewing licenses, for the operation of the board and for other costs associated with this act. The appropriation shall be repaid by the department within three years of the beginning of issuance of licenses by the board.

Section 2103. Regulations.

Within 18 months of the effective date of this section, the board shall BEGIN TO promulgate regulations to carry out this act. <—

~~Section 2104. Severability.~~

 <—

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

1 ~~the invalid provision or application.~~

2 Section ~~2105~~ 2104. Effective date. <—

3 This act shall take effect as follows:

4 (1) Section 501 shall take effect in ~~180 days~~ ONE YEAR. <—

5 (2) This section shall take effect immediately.

6 (3) The remainder of this act shall take effect in 60
7 days.