

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 254 Session of 1991

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MARKOSEK, ADOLPH AND CAWLEY, FEBRUARY 5, 1991

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE,
FEBRUARY 5, 1991

AN ACT

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

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

15 Section 1. Short title.

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

18 Section 2. Definitions.

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

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

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

27 "Electrical contractor." A person who engages in the
28 business of contracting to install, erect, repair or alter
29 electrical equipment for the generation, transmission or
30 utilization of electrical energy.

1 "Person." A person, firm, corporation or other legal entity.

2 Section 3. State Board of Examiners of Electrical Contractors.

3 (a) Creation.--There is hereby created the State Board of
4 Examiners of Electrical Contractors, a departmental
5 administrative board in the Department of State. The board shall
6 consist of nine members who are citizens of the United States
7 and who have been residents of this Commonwealth for a two-year
8 period, two of whom shall be public members, three of whom shall
9 be qualified electrical contractors with experience of not less
10 than ten years as an electrical contractor, one of whom shall be
11 a qualified electrical inspector with experience of not less
12 than five years as an electrical inspector, one of whom shall be
13 a registered professional engineer with experience of not less
14 than five years in the electrical industry, one of whom shall be
15 the Commissioner of the Bureau of Professional and Occupational
16 Affairs, and one of whom shall be the Director of the Bureau of
17 Consumer Protection in the Office of Attorney General, or his
18 designee.

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

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

1 one qualified electrical contractor with experience of not less
2 than ten years as an electrical contractor, one public member to
3 serve a two-year term; and one registered professional engineer
4 with experience of not less than five years in the electrical
5 industry to serve a one-year term.

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

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

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

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

28 (h) Forfeiture for nonattendance.--A public member who fails
29 to attend two consecutive statutorily mandated training seminars
30 in accordance with section 813(e) of the act of April 9, 1929

1 (P.L.177, No.175), known as The Administrative Code of 1929,
2 shall forfeit his or her seat unless the commissioner, upon
3 written request from the public member, finds that the public
4 member should be excused from a meeting because of illness or
5 the death of a family member.

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

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

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

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

24 Section 4. Powers and functions of board.

25 The board shall have the following powers:

26 (1) To pass upon the qualifications and fitness of
27 applicants for licenses and reciprocal licenses and to adopt
28 and revise rules and regulations requiring applicants to pass
29 examinations relating to their qualifications as a
30 prerequisite to the issuance of a license.

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

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

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

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

16 (6) To waive examination and grant a license in cases
17 deemed exceptional by the board and in accordance with
18 regulations promulgated by the board.

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

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

1 Department of State.

2 Section 5. License required.

3 After the effective date of this act, no person shall enter
4 into, engage in or work in business as an electrical contractor,
5 unless such person has obtained a license from the board in
6 accordance with the provisions of this act, and such licensee
7 shall assume full responsibility for inspection and supervision
8 of all electrical work to be performed in accordance with
9 recognized safety standards. Any single act or transaction shall
10 constitute engaging in the business of electrical contracting
11 within the meaning of this act.

12 Section 6. Qualifications for license.

13 No person shall be granted an electrical contractors license
14 unless he or she submits proof satisfactory to the board that:

15 (1) He or she is of good moral character.

16 (2) He or she has been employed or engaged in the
17 business of electrical construction and installation or has
18 equivalent practical experience for a period of not less than
19 five years preceding the time of such application, or shall
20 otherwise establish to the satisfaction of the board that he
21 or she has the necessary education and background to take the
22 examination for a license.

23 (3) He or she has passed an examination duly adopted by
24 the board, prepared and administered by a qualified and
25 approved professional testing organization in the manner
26 prescribed for written examinations by the provisions of
27 section 812.1 of the act of April 9, 1929 (P.L.177, No.175),
28 known as The Administrative Code of 1929.

29 (4) His or her application has been accompanied by the
30 application fee.

1 (5) He or she has not been convicted of a felony under
2 the act of April 14, 1972 (P.L.233, No.64), known as The
3 Controlled Substance, Drug, Device and Cosmetic Act, or of an
4 offense under the laws of another jurisdiction, which, if
5 committed in this Commonwealth, would be a felony under The
6 Controlled Substance, Drug, Device and Cosmetic Act, unless:

7 (i) at least ten years have elapsed from the date of
8 conviction;

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

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

21 Section 7. Exemption from examination.

22 The requirements of section 6(3) shall not apply and a
23 license shall be issued without examination to an individual who
24 submits an application for license, accompanied by the required
25 fee, within two years of the effective date of this act, who is
26 a resident of this Commonwealth, who submits proof of being
27 employed or engaged in the business of electrical contracting
28 within this Commonwealth for a period of at least ten years
29 prior to the effective date of this act and who demonstrates, to
30 the satisfaction of the board, that his or her principal

business for at least five years immediately preceding the date of application was that of an electrical contractor.

Section 8. Reciprocity.

The board shall have the power to grant a reciprocal license to an applicant who is licensed or certified as an electrical contractor in another state and who demonstrates qualifications which equal or exceed those required pursuant to this act in the determination of the board, provided that no license shall be granted under this section to an applicant unless the state in which the applicant is licensed affords reciprocal treatment to persons who are residents of this Commonwealth and who are licensed pursuant to this act.

Section 9. Refusal, suspension and revocation of license.

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

- (1) Securing a license by misrepresentation.
- (2) Failing to maintain the qualifications required by this act or demonstrating a level of competence manifestly inconsistent with retention of the license in question.
- (3) Engaging in fraudulent business activities or in misleading advertising practices.
- (4) Violating any provision of this act.
- (5) Committing an act of gross negligence or condoning such an act by his or her employee.
- (6) Failing to adequately and properly supervise employees in compliance with safety standards recognized by the board or regulations promulgated by the board.
- (7) Failing to perform electrical construction in conformance with standards of the National Electrical Code

1 then in effect and the standards, if any, of the municipality
2 wherein the work is performed.

3 (8) Being convicted of a felony or a crime of moral
4 turpitude in any Federal or state court, or being convicted
5 of the equivalent of a felony in any foreign country,
6 territory or possession. As used in this paragraph, the term
7 "convicted" includes a finding or verdict of guilt, an
8 admission of guilt or a plea of nolo contendere, or receiving
9 probation without verdict, disposition in lieu of trial or an
10 accelerated rehabilitative disposition in the disposition of
11 felony charges.

12 (9) Having a license to perform electrical contracting
13 suspended, revoked or refused or receiving other disciplinary
14 action by the proper licensing authority of any other state,
15 territory, possession or country.

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

20 (1) Deny the application for a license.

21 (2) Administer a public reprimand.

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

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

27 (5) Restore a suspended license and impose any
28 disciplinary or corrective measure which it might originally
29 have imposed.

30 (c) Hearing.--All actions of the board shall be taken

1 subject to the right of notice, hearing and adjudication and the
2 right of appeal therefrom in accordance with 2 Pa.C.S. (relating
3 to administrative law and procedure).

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

27 (e) Automatic suspension.--A license issued under this act
28 shall automatically be suspended upon the legal commitment of a
29 licensee to an institution because of mental incompetence from
30 any cause upon filing with the board a certified copy of such

1 commitment, conviction of a felony under the act of April 14,
2 1972 (P.L.233, No.64), known as The Controlled Substance, Drug,
3 Device and Cosmetic Act, or conviction of an offense under the
4 laws of another jurisdiction, which, if committed in this
5 Commonwealth, would be a felony under The Controlled Substance,
6 Drug, Device and Cosmetic Act. As used in this section, the term
7 "conviction" shall include a judgment, an admission of guilt or
8 a plea of nolo contendere. Automatic suspension under this
9 section shall not be stayed pending an appeal of conviction.
10 Restoration of such license shall be made as provided in this
11 act for revocation or suspension of such license.

12 Section 10. Reinstatement of license.

13 Unless otherwise ordered to do so by Commonwealth Court or an
14 appeal therefrom, the board shall not reinstate the revoked
15 license of a person to practice as an electrical contractor
16 pursuant to this act. Any person whose license has been revoked
17 may apply for reinstatement, after a period of at least five
18 years, but must meet all of the licensing qualifications of this
19 act, including the examination requirement, if he or she desires
20 to practice as an electrical contractor pursuant to this act at
21 any time after the revocation.

22 Section 11. Reporting of multiple licensure.

23 Any licensed electrical contractor of this Commonwealth who
24 is also licensed in any other state, territory or country shall
25 report this information to the board on the biennial renewal
26 application. Any disciplinary action taken in any other state,
27 territory or country shall be reported to the board on the
28 biennial renewal application, or within 90 days of disposition,
29 whichever is sooner. Multiple licensure shall be noted by the
30 board on the licensee's record, and such state, territory or

1 country shall be notified by the board of any disciplinary
2 actions taken against the licensee in this Commonwealth.

3 Section 12. Surrender of suspended or revoked license.

4 The board shall require a person whose license has been
5 suspended or revoked to return the license in such manner as the
6 board directs. Failure to do so shall be a misdemeanor of the
7 third degree.

8 Section 13. Death or disability of qualifying representative.

9 No person shall be denied the privilege of conducting
10 business as an electrical contractor in the event of death,
11 illness or other physical disability of the representative
12 thereof who qualified the person for a business permit for at
13 least six months following the date of the death, illness or
14 other physical disability, provided that the business is
15 conducted under such qualified supervision as the board deems
16 adequate.

17 Section 14. Transferability of license.

18 No license issued under this act shall be assignable or
19 transferable.

20 Section 15. Powers of municipalities.

21 (a) Municipal ordinances preserved.--This act shall not deny
22 to any municipality the power to inspect electrical work or
23 equipment or the power to regulate the standards and manner in
24 which electrical work shall be done, but no municipality shall
25 require any electrical contractor licensed under this act to
26 obtain a municipal license or business permit to engage in the
27 business of electrical contracting in the municipality.

28 (b) Failure to comply with local ordinance.--Any licensee
29 who fails to comply with any municipal ordinance concerning the
30 inspection of electrical work shall be guilty of a violation of

1 this act.

2 Section 16. Exempt work or construction.

3 Electrical work or construction which is performed on the
4 following facilities or which is by or for the following
5 entities shall not be included within the business of electrical
6 contracting so as to require a license under this act:

7 (1) Minor repair work, such as replacement of lamps and
8 fuses, existing wall switches, plug-in receptacles on
9 existing outlets and sockets on existing incandescent
10 fixtures.

11 (2) The connection of portable electrical appliances to
12 suitable permanently installed receptacles.

13 (3) Electrical work in mines or on ships, railway cars,
14 elevators, escalators or automotive equipment.

15 (4) Electrical work done by or for a public utility,
16 cooperative or municipality, when such work is a part of the
17 plant or services used in the generation, supplying,
18 transmission and distribution of electricity or in the
19 provision of communication service to the public.

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

23 (6) Commercial radio and television transmission
24 equipment.

25 (7) Construction by any branch of the Federal
26 Government.

27 (8) Installation, repair or maintenance performed by
28 full-time employees of the Commonwealth, or of a political
29 subdivision or municipal authority, on the premises owned or
30 occupied by the Commonwealth, political subdivision or

1 authority.

2 (9) The maintaining, installing or connecting of
3 automatic oil, gas or coal burning equipment or gasoline or
4 diesel oil dispensing equipment, and the lighting in
5 connection therewith, under standards adopted by the board.

6 Section 17. Penalties.

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

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

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

27 Section 18. License renewal; records and fees.

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

30 (b) Records.--A record of all persons licensed to practice

1 as electrical contractors in this Commonwealth shall be kept in
2 the office of the board and shall be open to public inspection
3 and copying upon payment of a nominal fee for copying the
4 record.

5 (c) Fees.--

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

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

23 Section 19. Subpoenas.

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

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

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

20 Section 20. Unlawful practice.

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

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

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

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

6 Section 21. Appropriation.

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

16 Section 22. Severability.

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

22 Section 23. Sunset.

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