

1 **SENATE FLOOR VERSION**

2 March 26, 2015

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 HOUSE BILL NO. 1828

By: Martin, Osborn, Stone and
Moore of the House

6 and

7 Loveless of the Senate

8
9 [professions and occupations - Construction
10 Industries Board - creating the Oklahoma Professional
11 Residential and Commercial Builders Registration Act
12 - codification - effective date]

13 ~~BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:~~

14 SECTION 1. AMENDATORY 59 O.S. 2011, Section 1000.2, as
15 amended by Section 2, Chapter 332, O.S.L. 2013 (59 O.S. Supp. 2014,
16 Section 1000.2), is amended to read as follows:

17 Section 1000.2 A. The Construction Industries Board is hereby
18 created to continue until July 1, 2016, in accordance with the
19 provisions of the Oklahoma Sunset Law. The Board shall regulate the
20 plumbing, electrical and mechanical trades, the building and
21 construction inspectors, ~~and~~ the roofing contractors, and the
22 registered residential and commercial builders through the powers
23 and duties set forth in the Construction Industries Board Act and in

1 the respective licensing or registration acts for such trades, or as
2 otherwise provided by law.

3 B. 1. Beginning July 1, ~~2013~~ 2016, the Board shall be composed
4 of seven (7) members appointed by the Governor with the advice and
5 consent of the Senate, as follows:

6 a. ~~two members~~ one member shall have at least ten (10)
7 years' experience in the plumbing trade, ~~of which one~~
8 and shall be a plumbing contractor ~~and one shall be or~~
9 a journeyman plumber,

10 b. ~~two members~~ one member shall have at least ten (10)
11 years' experience in the electrical trade, ~~of which~~
12 ~~one~~ and shall be an electrical contractor ~~and one~~
13 ~~shall be or~~ a journeyman electrician,

14 c. ~~two members~~ one member shall have at least ten (10)
15 years' experience in the mechanical trade, ~~of which~~
16 ~~one~~ and shall be a mechanical contractor ~~and one shall~~
17 ~~be or~~ a mechanical journeyman, ~~and~~

18 d. one member shall have at least ten (10) years'
19 experience in residential construction as a general
20 contractor,

21 e. one member shall have at least ten (10) years'
22 experience in commercial or industrial construction as
23 a general contractor,

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1 f. one member shall have at least ten (10) years'
2 experience as a roofing contractor, and

3 g. one member shall have at least ten (10) years'
4 experience as a building and construction inspector.

5 2. Members shall be appointed for staggered terms of four (4)
6 years, as designated by the Governor. Members shall be limited to
7 two full terms and continue in office until a successor is appointed
8 by the Governor. The Governor shall fill all vacancies and
9 unexpired terms in the same manner as the original appointment of
10 the member whose position is to be filled. A member may be removed
11 by the Governor at any time. A person is eligible for reappointment
12 after a vacancy period of not less than two (2) years.

13 SECTION 2. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 1160.1 of Title 59, unless there
15 is created a duplication in numbering, reads as follows:

16 Sections 2 through 12 of this act shall be known and may be
17 cited as the "Oklahoma Professional Residential and Commercial
18 Builders Registration Act".

19 SECTION 3. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 1160.2 of Title 59, unless there
21 is created a duplication in numbering, reads as follows:

22 As used in the Oklahoma Professional Residential and Commercial
23 Builders Registration Act:

24 1. "Board" means the Construction Industries Board;

1 2. "Committee" means the Advisory Committee of Professional
2 Residential and Commercial Registered Builders;

3 3. "Builder or contractor" means a person engaged in the
4 practice or business of constructing, remodeling or building a
5 residential, retail or commercial building in this state;

6 4. "Registered builder or registered contractor" means a person
7 registered with the Construction Industries Board to construct,
8 remodel or build in this state; and

9 5. "Residential, retail or commercial building" means any
10 building in this state. "Residential, retail or commercial
11 building" shall not mean roads, highways, bridges, public sanitation
12 or water facilities.

13 SECTION 4. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 1160.3 of Title 59, unless there
15 is created a duplication in numbering, reads as follows:

16 The Construction Industries Board, acting upon the advice of the
17 Advisory Committee of Professional Residential and Commercial
18 Registered Builders, shall issue all registrations required by the
19 Oklahoma Professional Residential and Commercial Builders
20 Registration Act, and shall exercise the following powers and
21 duties:

22 1. To make rules and regulations deemed necessary to implement
23 the provisions of this act;

24

1 2. To prescribe application forms for registration applicants,
2 certificate forms and such other forms as necessary to implement the
3 provisions of this act;

4 3. To establish a curriculum of study for registration in the
5 practice and theory of building and construction in this state with
6 the input of a statewide organization or its affiliates representing
7 the construction industry;

8 4. To keep a complete record of all registered builders and to
9 prepare an official listing of the names and addresses of all
10 registered builders which shall be kept current. A copy of such
11 listing shall be available on the website of the Board;

12 5. To keep a permanent record of all proceedings pursuant to
13 this act;

14 6. To employ and establish the duties of clerical personnel
15 necessary to carry out the provisions of this act;

16 7. To conduct hearings to revoke, suspend or refuse renewal of
17 registrations under this act, and to issue subpoenas to compel
18 witnesses to testify or produce evidence at such hearings in
19 accordance with the Administrative Procedures Act; and

20 8. To set the fees imposed by the provisions of this act in
21 amounts that are adequate to collect sufficient revenue to meet the
22 expenses necessary to perform the duties of the Board without
23 accumulating an unnecessary surplus.

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1 SECTION 5. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1160.4 of Title 59, unless there
3 is created a duplication in numbering, reads as follows:

4 A. There is hereby created the Advisory Committee of
5 Professional Residential and Commercial Registered Builders. The
6 Committee shall consist of five (5) members appointed by the
7 Construction Industries Board. The Board shall appoint the
8 Committee members from a list of six persons submitted annually,
9 three of whom are from a statewide organization representing the
10 residential construction industry and three of whom are from a
11 statewide organization representing the commercial construction
12 industry, with one member to be a certified building or code
13 official recommended from a list of at least two persons recommended
14 by either a statewide organization representing municipalities or
15 the Oklahoma Uniform Building Code Commission. Four of the members
16 shall be contractors in this state with at least five (5) years of
17 experience. For the initial appointments, the persons appointed
18 shall have been actively engaged in and practicing building and
19 construction for at least five (5) years in this state. All members
20 appointed shall be residents of this state and actively engaged as
21 builders as herein defined. No person shall be appointed to the
22 Committee who has been convicted of any felony or any crime
23 involving moral turpitude.

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1 B. The terms of the members shall be for three (3) years and
2 shall continue until their successors are appointed and qualify.
3 Members will be term-limited to three full terms. Provided,
4 however, of those first appointed, one shall serve for one (1) year,
5 one shall serve for two (2) years, and one shall serve for three (3)
6 years. Vacancies shall be filled in the manner of the original
7 appointment for the unexpired portion of the term only. The Board,
8 after notice and opportunity for hearing, may remove any member of
9 the Committee for neglect of duty, incompetence, revocation or
10 suspension of his or her registration.

11 C. A member of the Committee may hold another license for a
12 profession or trade which requires a license for purposes of the
13 construction industry. Each member shall be duly registered as a
14 residential builder within ninety (90) days of their appointment and
15 maintain a valid registration during their term.

16 D. Members of the Committee shall elect from their number a
17 chairperson. Special meetings of the Committee shall be called by
18 the chairperson on the written request of any three members. The
19 Committee may recommend to the Board the adoption of rules necessary
20 to govern its proceedings and implement the purposes of this act.

21 E. Each member of the Committee may be reimbursed for his or
22 her reasonable and necessary expenses as provided for in the State
23 Travel Reimbursement Act from the Construction Industries Board or
24 any fund established pursuant to this act.

1 SECTION 6. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1160.5 of Title 59, unless there
3 is created a duplication in numbering, reads as follows:

4 A. No person shall engage in or practice building or
5 construction or hold himself or herself out as a contractor or
6 builder, or use the title "Registered Builder" or "Licensed
7 Contractor", or the initials "R.B." or "L.C.", in this state, unless
8 he or she is registered in accordance with the provisions of the
9 Oklahoma Professional Residential and Commercial Builders
10 Registration Act. No other person shall in any way, orally or in
11 writing, in print or by sign or transmission of sound or sight,
12 directly or by implication, represent himself or herself as a
13 builder or contractor. Such misrepresentation, upon conviction,
14 shall constitute a misdemeanor and shall be punishable as provided
15 in this act.

16 B. Nothing in this act shall prohibit any person in the
17 construction industry in this state under any other law or rule from
18 engaging in the practice for which he or she is duly licensed,
19 registered or otherwise authorized by law.

20 SECTION 7. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 1160.6 of Title 59, unless there
22 is created a duplication in numbering, reads as follows:

23 A. On and after July 1, 2016, a registered builder or
24 registered contractor means all persons who are currently registered

1 by the Construction Industries Board and all persons who have
2 satisfactorily passed other requirements as herein created or
3 authorized. On and after July 1, 2016, all applicants for
4 registration as builders or contractors shall be required to furnish
5 to the Board evidence of being in the construction business for at
6 least two (2) years.

7 B. The applicant shall be registered as a builder or contractor
8 for the remainder of that calendar year if the applicant meets the
9 rules and criteria established by the Board. Each registration
10 shall be signed by the chairperson of the Advisory Committee of
11 Professional Residential and Commercial Registered Builders or
12 designee and the chairperson of the Board and shall bear the seal of
13 the Board.

14 C. The Board may issue a registration to an applicant from
15 another state who has met the requirements established by this act.
16 The applicant to be registered in this state may provide proof of
17 licensure or registration in good standing in another state at the
18 time of making application for registration in this state. The
19 applicant shall show proof of an established business address in
20 this state or be a resident of this state at the time of
21 application.

22 D. The Board shall establish continuing education requirements
23 to facilitate the maintenance of current practice skills of all
24 persons registered pursuant to this act. The Board shall designate

1 and approve authorized sources for continuing education annually.
2 Courses established by a statewide organization or its affiliates
3 representing the construction industry shall be approved for
4 continuing education.

5 E. The Board shall meet at least three times per calendar year
6 for the purpose of examining applicants for registration and
7 training and transacting other business as may be necessary. The
8 meetings shall be held at the office of the Board.

9 F. Every person registered pursuant to this act who desires to
10 continue the practice of building shall annually, on the month of
11 his or her birthdate, make application for renewal of the
12 registration and shall pay fees established by the Board.

13 G. If any person fails to renew his or her registration within
14 thirty (30) days from the date same becomes due, the registration of
15 such person shall become inactive and, in order to have such license
16 reinstated, it shall be necessary for such person to apply to the
17 Board as provided in this act and to meet the requirements
18 established by the Board for reinstatement.

19 H. All applicants shall be required to show proof and maintain
20 a valid general liability policy and workers' compensation insurance
21 acceptable to the Board with a minimum of One Million Dollars
22 (\$1,000,000.00) aggregate on general liability and a minimum premium
23 policy of workers' compensation even if no employees are currently
24 employed.

1 I. Each applicant shall show proof of a written one-year
2 warranty policy that shall be available and in use for each
3 residential structure upon completion. Such residential
4 construction warranty policy shall be a third-party warranty, a
5 warranty approved by the Committee or a policy developed by a
6 statewide organization representing the residential construction
7 industry.

8 J. Each registered builder must use a written contract for
9 projects exceeding Five Hundred Dollars (\$500.00).

10 K. Each registered builder shall obtain builder's risk
11 insurance for the project unless obtained by the owner or covered by
12 a third-party bonding policy, if a bond is required by the owner.

13 L. Only the principal, designated company representative or
14 owner of a company is to be registered. Nothing in this act shall
15 be construed to require the registration of all employees in a
16 construction firm.

17 M. Each registered builder shall submit their registration
18 number to the Oklahoma Tax Commission and the Oklahoma Employment
19 Security Commission.

20 SECTION 8. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 1160.7 of Title 59, unless there
22 is created a duplication in numbering, reads as follows:

23 Every person who is registered pursuant to the provisions of the
24 Oklahoma Professional Residential and Commercial Builders

1 Registration Act to practice as a builder in this state shall keep
2 the registration displayed in his or her place of business as long
3 as he or she is engaged in the practice of building. The receipt
4 for the annual renewal of registration shall be kept at such
5 person's place of business and shall be shown to any person
6 requesting to see the same. The registered builder shall keep the
7 Construction Industries Board informed of his or her current
8 address. A registration issued by the Board is the property of the
9 Board and shall be surrendered on demand of the Board.

10 SECTION 9. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 1160.8 of Title 59, unless there
12 is created a duplication in numbering, reads as follows:

13 A. The Advisory Committee of Professional Residential and
14 Commercial Registered Builders may suspend or revoke the
15 registration of any person authorized to engage and practice as a
16 builder pursuant to the provisions of the Oklahoma Professional
17 Residential and Commercial Builders Registration Act upon proof that
18 the registrant:

- 19 1. Has used fraud or deception in applying for a registration;
- 20 2. Has been guilty of unprofessional conduct defined by the
21 rules recommended by the Committee and established by the
22 Construction Industries Board or has violated the Code of Ethics
23 adopted by the Board; or

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1 3. Has willfully violated any of the provisions of this act or
2 any regulation adopted hereunder.

3 B. No suspension or revocation shall be made until such person
4 appears before the Committee for a hearing. Failure to appear is
5 grounds for suspension or revocation. Proceedings for the
6 suspension or revocation of a license are governed by rules and
7 regulations of the Board and by the Administrative Procedures Act.

8 C. Decisions by the Committee may be appealed to the
9 Construction Industries Board for adjudication.

10 SECTION 10. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 1160.9 of Title 59, unless there
12 is created a duplication in numbering, reads as follows:

13 A. The basic personnel and necessary facilities which are
14 required to administer the Oklahoma Professional Residential and
15 Commercial Builders Registration Act shall be the personnel and
16 facilities of the Construction Industries Board. The Board
17 personnel shall act as agents of the Advisory Committee of
18 Professional Residential and Commercial Registered Builders. If
19 necessary for the administration or implementation of this act, the
20 Board may secure and provide for compensation for services that the
21 Board considers necessary and may employ and compensate within
22 available resources professional consultants, technical assistants,
23 and employees on a full-time or part-time basis.

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1 B. The Board shall maintain the records of all registered
2 residential builders, process all applications for registration for
3 review by the Committee, and investigate all complaints deemed to be
4 appropriate allegations of violations of this act.

5 C. The Board shall employ such staff, equipment, and supplies
6 as are necessary to carry out administrative and investigative
7 functions required to maintain and support the objectives of the
8 Committee in exercising its duties as prescribed by this act.

9 SECTION 11. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 1160.10 of Title 59, unless
11 there is created a duplication in numbering, reads as follows:

12 On and after July 1, 2016, any person who engages in or
13 practices or holds himself or herself out as a builder in violation
14 of the provisions of the Oklahoma Professional Residential and
15 Commercial Builders Registration Act, upon conviction, shall be
16 guilty of a misdemeanor punishable by a fine not exceeding Five
17 Hundred Dollars (\$500.00) for a first offense, not exceeding One
18 Thousand Dollars (\$1,000.00) for a second offense, and not exceeding
19 Two Thousand Five Hundred Dollars (\$2,500.00) for any third or
20 subsequent offense. Each day of such violation shall constitute a
21 separate offense. Any person who fails to register for any period
22 of twelve (12) months or more or who continues to practice or hold
23 himself or herself out as a builder or contractor shall be

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1 permanently prohibited from registration by the Construction
2 Industries Board.

3 SECTION 12. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1160.11 of Title 59, unless
5 there is created a duplication in numbering, reads as follows:

6 A. The application and registration fees shall be set by the
7 Construction Industries Board by rules adopted pursuant to this act.
8 The initial application and registration fees shall be One Hundred
9 Dollars (\$100.00) each. The renewal fee shall be the same as the
10 initial registration fee. The registration shall be valid for one
11 (1) year.

12 B. Each registrant shall be required to have his or her
13 registration number disclosed on all company vehicles bearing
14 company signs, equipment, contracts, and any written advertising or
15 broadcast materials.

16 C. The registrant shall be required to present his or her
17 registration number before obtaining a building permit.

18 SECTION 13. This act shall become effective November 1, 2015.

19 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE
20 March 26, 2015 - DO PASS AS AMENDED

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