



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB5832

Introduced 09/18/06, by Rep. Jack D. Franks

SYNOPSIS AS INTRODUCED:

New Act
5 ILCS 80/4.28 new

Creates the General Building Contractor Licensing Act. Provides for the licensure and regulation of general building contractors and specialty contractors by the Department of Financial and Professional Regulation. Creates the General Building Contractor Licensing Board. Sets forth provisions concerning powers and duties of the Board, exemptions from the Act, application procedures and qualifications, license expiration, renewal, and restoration, grounds for disciplinary action, penalties for violation of the Act, administrative procedures, and other requirements. Amends the Regulatory Sunset Act to repeal the General Building Contractor Licensing Act on January 1, 2018. Effective January 1, 2008.

LRB094 21534 RAS 59904 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 General Building Contractor Licensing Act.

6 Section 5. Definitions. In this Act:

7 "Advertise" includes without limitation the issuance of
8 any card, sign, or device to any person or the causing,
9 permitting, or allowing of any sign or marking on or in any
10 building or structure, in any newspaper or magazine, by airwave
11 or any electronic transmission, or in any directory under a
12 listing for work covered by this Act, with or without any
13 limiting qualifications.

14 "Board" means the General Building Contractor Licensing
15 Board.

16 "Department" means the Department of Financial and
17 Professional Regulation.

18 "General building contractor" means any person who
19 undertakes to, offers to undertake to, purports to have the
20 capacity to undertake to, submits a bid to, or does himself or
21 herself or by or through others construct, alter, repair, add
22 to, subtract from, improve, move, wreck, or demolish any
23 structure built, being built, or to be built, for the support,
24 shelter, and enclosure of persons, animals, chattels, or
25 movable property of any kind.

26 "Person" means any individual, partnership, or corporation
27 or any combination thereof.

28 "Secretary" means the Secretary of Financial and
29 Professional Regulation.

30 "Specialty contractor" means any general building
31 contractor whose operations involve the performance of
32 construction work that requires special skill and whose

1 principal general building contracting business involves the
2 use of specialized building trades or crafts, as determined by
3 the Department.

4 Section 10. Licensure requirement.

5 (a) Beginning 12 months after the adoption of the final
6 administrative rules under this Act, no person may practice,
7 offer to practice, attempt to practice, or hold himself or
8 herself out to practice as a general building contractor or as
9 a specialty contractor without being licensed or exempt under
10 this Act.

11 (b) Beginning 12 months after the adoption of the final
12 administrative rules under this Act, no person may advertise as
13 a general building contractor or a specialty contractor without
14 being licensed or exempt under this Act.

15 Section 15. General Building Contractor Licensing Board.

16 (a) There is created the General Building Contractor
17 Licensing Board, which shall be under the authority of the
18 Department and shall consist of 7 persons appointed by the
19 Secretary. Six members shall be licensees under this Act,
20 except that in the case of initial appointments, the licensed
21 Board members shall meet the requirements for licensure under
22 this Act and shall have obtained licensure within 12 months
23 after the adoption of the final administrative rules under this
24 Act. Two members shall be general building contractors, 2
25 members shall be specialty contractors, 2 members shall be
26 representatives of a statewide association representing
27 general building contractors, and one member shall be a
28 knowledgeable public member who is not licensed under this Act
29 or any Act administered by the Department. Board membership
30 shall reasonably represent the different geographic areas of
31 the State.

32 (b) The persons appointed shall hold office for 4 years and
33 until a successor is appointed and has qualified. Of the
34 members of the Board first appointed, 2 shall be appointed to

1 serve for 2 years, 2 shall be appointed to serve for 3 years,
2 and 3 shall be appointed to serve for 4 years. No member may
3 serve more than 2 complete 4-year terms.

4 (c) Members of the Board shall be immune from suit in any
5 action based upon any disciplinary proceedings or other acts
6 performed in good faith as members of the Board, unless the
7 conduct that gave rise to the suit was willful or wanton
8 misconduct.

9 (d) Within 90 days after a vacancy occurs, the Secretary
10 shall fill the vacancy for the unexpired portion of the term
11 with an appointee who meets the same qualifications as the
12 person whose position has become vacant. The Board shall meet
13 annually to elect one member as chairperson and one member as
14 vice-chairperson. No officer shall be elected more than twice
15 in succession to the same office.

16 (e) The members of the Board shall receive reimbursement
17 for actual, necessary, and authorized expenses incurred in
18 attending the meetings of the Board.

19 Section 20. Powers and duties of the Board. The Board may
20 exercise each of the following powers and duties subject to the
21 provisions of this Act:

22 (1) Prescribe forms of application for licensure.

23 (2) Pass upon the qualifications of applicants for
24 licensure, including examination, and issue licenses to
25 those found to be fit and qualified.

26 (3) Develop specialty contracting classes of
27 licensure.

28 (4) Conduct hearings on proceedings to revoke,
29 suspend, or otherwise discipline or to refuse to issue or
30 renew licenses.

31 (5) Adopt rules necessary for the administration and
32 enforcement of this Act.

33 Section 25. Exemptions.

34 (a) The Board may adopt rules to make licensure optional

1 for persons who offer, bid, or undertake to perform work
2 peripheral to construction, as defined by the Board by rule.

3 (b) The following persons are exempt from licensure under
4 this Act:

5 (1) A person who is constructing, altering, improving,
6 or repairing personal property.

7 (2) A person who is constructing, altering, improving,
8 or repairing a structure located within the boundaries of
9 any site or reservation under the jurisdiction of the
10 federal government.

11 (3) A person who furnishes materials, supplies,
12 equipment, or finished products and does not fabricate them
13 into or consume them in the performance of the work of a
14 general building contractor or specialty contractor.

15 (4) A person working on one structure or project, under
16 one or more contracts, when the aggregate price of all of
17 that person's contracts for labor, materials, and all other
18 items is less than \$500 and such work is of a casual,
19 minor, or inconsequential nature.

20 (c) This Section does not apply to a person who advertises
21 or puts out any sign or card or other device that might
22 indicate to the public that the person is a general building
23 contractor or specialty contractor.

24 Section 30. Application; qualifications.

25 (a) To obtain a general building contractor license or
26 specialty contractor license, an applicant must indicate
27 whether the license is sought for an individual, corporation,
28 or partnership. If the license is sought for an individual, the
29 license shall be issued to the individual, who shall also be
30 designated as the qualifying party. If the license is sought
31 for a partnership or corporation, the license shall be issued
32 in the company name. A company must designate one individual
33 who will serve as the qualifying party. The qualifying party
34 must have had, within the 10 years immediately before the
35 filing of the application, at least 4 full years of experience

1 within the building contracting industry.

2 (b) An applicant for licensure under this Act must submit
3 an application in writing to the Board on a form prescribed by
4 the Board and accompanied by the application fee determined by
5 the Board. The application shall include, but need not be
6 limited to, all of the following information:

7 (1) The name, principal place of business, address, and
8 telephone number of the person designated as the qualifying
9 party.

10 (2) If a corporation, the name, address, telephone
11 number, and position of each officer.

12 (3) A description of the building contracting business
13 for which licensure is sought, including the principal
14 products and services provided.

15 (4) Satisfactory evidence of any experience within the
16 building contracting field, such as a certificate of
17 completion of apprenticeship or college transcript.

18 (5) Satisfactory evidence that the contractor has
19 obtained workers' compensation insurance covering his or
20 her employees or is approved as a self-insurer of workers'
21 compensation, in accordance with Illinois law.

22 (6) Satisfactory evidence that the applicant has
23 submitted a bond to the Department in an amount to be
24 determined by the Board by rule.

25 (7) Disclosure of all settlements and judgments
26 against the applicant.

27 (8) Disclosure of all civil claims and criminal charges
28 pending against the applicant.

29 (9) Disclosure of relevant credit history information,
30 as determined by the Board.

31 (c) The Board may credit years of experience based on
32 training, apprenticeship, and education as follows:

33 (1) A maximum of one and one-half years, upon the
34 submission of evidence of a degree from a school accredited
35 by the Bureau of Apprenticeship and Training.

36 (2) A maximum of 2 years, upon the submission of proof

1 of any of the following:

2 (A) A 4-year degree from an accredited college or
3 university in the field of accounting, business,
4 economics, mathematics, or physics or an area related
5 to the building contracting trades.

6 (B) A professional degree in law.

7 (C) Substantial college or university work in
8 accounting, architecture, business, construction
9 technology, drafting, economics, engineering,
10 mathematics, or physics.

11 (3) A maximum of 3 years, upon the submission of either
12 (i) a certificate of completion of apprenticeship from an
13 accredited apprenticeship program or (ii) proof of the
14 successful completion of a 4-year degree from an accredited
15 college or university in architecture, construction
16 technology, or any field of engineering that is directly
17 related to construction.

18 (d) The applicant must provide notice to the Board, in
19 writing, of any changes in the information required to be
20 provided on the application.

21 Section 35. Duties of a qualifying party.

22 (a) While engaged as or named as a qualifying party for a
23 general building contractor licensee or a specialty contractor
24 licensee, no person may be the named qualifying party for any
25 other licensee; however, the person may act in the capacity of
26 the qualifying party for one additional licensee of the same
27 type of licensure, if either of the following conditions
28 exists:

29 (1) there is a common ownership of at least 25% of each
30 licensed entity for which the person acts as a qualifying
31 party; or

32 (2) the same person acts as a qualifying party for one
33 licensed entity and its licensed subsidiary.

34 (b) In the event that a qualifying party is terminated or
35 elects to terminate his or her status as the qualifying party

1 of a licensee, the qualifying party and the licensee shall
2 notify the Board of that fact in writing. Thereafter, the
3 licensee shall notify the Board of the name and address of the
4 newly designated qualifying party. The requirements of this
5 subsection (b) must be met in a timely manner, as established
6 by the Board by rule.

7 (c) In this Section, "subsidiary" means a corporation that
8 is at least 25% owned by another licensee.

9 Section 40. Social security number on license application.
10 In addition to any other information required to be contained
11 in the application, every application for an original, renewal,
12 or restored license under this Act shall include the
13 applicant's social security number.

14 Section 45. Criminal history records check. Each applicant
15 must submit to a fingerprint-based criminal history records
16 check conducted by the Department of State Police and the
17 Federal Bureau of Investigation. The criminal history records
18 check shall be performed and the required fingerprints shall be
19 submitted in the form and manner prescribed by the Department
20 of State Police. The Department of State Police shall furnish,
21 pursuant to positive identification, any criminal history
22 records of an applicant to the Board. The Department of State
23 Police shall charge the Department a fee for conducting the
24 criminal history records check, which shall be deposited in the
25 State Police Services Fund and shall not exceed the cost of the
26 inquiry.

27 Section 50. Joint venture license.

28 (a) Upon the meeting of qualifications and the submission
29 of a fee determined by the Board, a joint venture license may
30 be issued to any combination of individuals, corporations,
31 partnerships, or other joint ventures, each of which holds a
32 current, active, general building contractor or specialty
33 contractor license in good standing. A joint venture license

1 may be issued in any classification in which at least one of
2 the entities is licensed. An active joint venture license shall
3 be automatically suspended by operation of law during any
4 period in which any member of the entity does not hold a
5 current, active license in good standing issued under this Act.

6 (b) Two or more licensees, each of whom has been issued a
7 license to act separately in the capacity of a general building
8 contractor or specialty contractor under this Act, may not be
9 awarded a contract jointly or otherwise act as a general
10 building contractor or specialty contractor without first
11 having secured a joint venture license in accordance with the
12 provisions of this Act. Prior to obtaining a joint venture
13 license, however, contractors licensed in accordance with this
14 Act may jointly bid for the performance of work covered by this
15 Act. If a combination of licensees submit a bid for the
16 performance of work for which a joint venture license is
17 required, a failure to obtain that license shall not prevent
18 the imposition of any penalty specified by law for the failure
19 of a general building contractor or a specialty contractor who
20 submits a bid to enter into a contract pursuant to the bid.

21 Section 55. Bond. Before issuing or renewing a license,
22 the Board shall require each applicant or licensee to file and
23 maintain in force a surety bond, issued by an insurance company
24 authorized to transact fidelity and surety business in
25 Illinois. The bond shall be continuous in form, unless
26 terminated by the insurance company. An insurance company may
27 terminate a bond and avoid further liability by filing a 60-day
28 notice of termination with the Board and, at the same time,
29 sending the notice to the contractor. A license shall be
30 cancelled without hearing on the termination date of the
31 contractor's bond, unless a new bond is filed with the Board to
32 become effective at the termination date of the prior bond. If
33 a license has been cancelled without hearing under this
34 Section, the license shall be reinstated upon showing proof of
35 compliance with this Section.

1 Section 60. Licenses; renewal; restoration; person in
2 military service.

3 (a) A license issued under this Act shall expire 2 years
4 from the last day of the month in which it was issued.

5 (b) Failure to renew a license before its date of
6 expiration shall cause the license to be non-renewed, and it
7 shall be unlawful thereafter for the holder of the expired
8 license to engage or offer to engage in a general building
9 contracting or specialty contracting business under the
10 license unless and until the license is restored.

11 (c) Any person who has permitted a license to expire or who
12 has a license on inactive status may have it restored by
13 submitting an application to the Board and filing proof of
14 fitness, as defined by rule, to have the license restored and
15 by paying the required fee.

16 (d) Any person whose license expired while on active duty
17 with the armed forces of the United States, while called into
18 service or training with the State Militia, or while in
19 training or education under the supervision of the United
20 States government prior to induction into military service may
21 have his or her license restored without paying any renewal
22 fees if, within 2 years after the termination of such service,
23 training, or education, except under conditions other than
24 honorable, the Department is furnished with satisfactory
25 evidence that the person has been so engaged and that such
26 service, training, or education has been so terminated.

27 Section 65. Inactive status. A person who notifies the
28 Board in writing, on forms prescribed by the Board, may elect
29 to place his or her license on inactive status and shall,
30 subject to rule of the Board, be excused from payment of
31 renewal fees until he or she notifies the Board, in writing, of
32 his or her desire to resume active status. A person requesting
33 restoration from inactive status shall be required to pay the
34 current renewal fee and shall be required to restore his or her

1 license, pursuant to this Act. Practice by an individual whose
2 license is on inactive status shall be considered to be
3 unlicensed practice as a general building contractor or
4 specialty contractor and shall be grounds for discipline under
5 this Act.

6 Section 70. Licensure by endorsement. The Board may grant
7 a license to an applicant holding a license or certificate in
8 good standing in another state whose requirements for licensure
9 or certification are equal to or greater than those required by
10 this Act if the Board has authorized an exam waiver agreement
11 with that state. An applicant may be exempt from the technical
12 examination required for licensure if the applicant can verify
13 the successful completion of an examination in another state
14 that is essentially the same as the examination required by the
15 Board, regardless of the absence of a reciprocal agreement with
16 that state. An applicant for licensure under this Section may
17 be required to pass an examination on Illinois construction
18 codes and laws and must comply with all other licensing
19 requirements of this Act.

20 Section 75. Vehicle displays. Any general building
21 contractor or specialty contractor licensed under this Act must
22 have displayed on each side of each motor vehicle used in his
23 or her business for which a commercial vehicle registration fee
24 has been paid pursuant to the Illinois Vehicle Code his or her
25 name, permanent business address, and contractor's license
26 number, all in letters and numerals not less than one and
27 one-half inches high.

28 Section 80. Contracts. Any person licensed under this Act
29 shall include the following statement in at least 10-point type
30 on all written contracts with respect to which the person is
31 the prime general building contractor or specialty contractor:

32 "General building contractors and specialty
33 contractors are required by law to be licensed and

1 regulated by the General Building Contractors Licensing
2 Board, which has jurisdiction to investigate complaints
3 against general building contractors and specialty
4 contractors if a complaint regarding a patent act or
5 omission is filed within 4 years after the date of the
6 alleged violation. A complaint regarding a latent act or
7 omission pertaining to structural defects must be filed
8 within 10 years after the date of the alleged violation.
9 Any questions concerning a contractor may be referred to
10 the General Building Contractor Licensing Board.".

11 (b) Any person licensed under this Act shall include the
12 following statement in at least 12-point type in all home
13 improvement contracts and service and repair contracts for work
14 covered by this Act:

15 "Information about the General Building Contractor
16 Licensing Board: The General Building Contractor Licensing
17 Board is the entity responsible for licensing and
18 regulating general building contractors and specialty
19 contractors.

20 Contact the General Building Contractor Licensing
21 Board for information about the licensed general building
22 contractor or specialty contractor you are considering,
23 including information about disclosable complaints,
24 disciplinary actions, and civil judgments that are
25 reported to the General Building Contractor Licensing
26 Board.

27 Use only licensed general building contractors and
28 specialty contractors. If you file a complaint against a
29 licensed general building contractor or specialty
30 contractor within the legal deadline, the Board has the
31 authority to investigate the complaint. If you use an
32 unlicensed general building contractor or specialty
33 contractor, the Board may not be able to help you resolve
34 your complaint. Your only remedy may be in civil court, and
35 you may be liable for damages arising out of any injuries
36 to the unlicensed general building contractor or specialty

1 contractor or the unlicensed general building contractor's
2 or specialty contractor's employees.".

3 Section 85. Public records; Board notification.

4 (a) Except for financial information, the information
5 required by the Department or the Board of any applicant for
6 licensure and any licensee under this Act shall be a public
7 record.

8 (b) If a licensee changes the name, address, or employment
9 from that which appears on the current license, the licensee
10 shall notify the Board of the change within 30 days after it
11 occurs.

12 (c) A licensee must notify the Board of any civil claim or
13 criminal charge pending against the licensee within a
14 reasonable amount of time after he or she receives formal
15 notification of the claim or charge, as determined by the
16 Board, and of the final disposition of each claim or charge
17 within 30 days after that disposition occurs.

18 (d) All public records of the Department and the Board,
19 when duly certified by the Secretary, shall be received as
20 prima facie evidence in any State administrative or judicial
21 proceeding.

22 Section 87. Internet website. The Department shall
23 establish and maintain an Internet website dedicated to the
24 provision of information to the public concerning licensed
25 general building contractors and licensed specialty
26 contractors. The content of the website shall include, without
27 limitation each of the following:

28 (1) A description of any criminal conviction of a
29 licensee. For the purposes of this item (1), a person shall
30 be deemed to be convicted of a crime if he or she pled
31 guilty or if he or she was found or adjudged guilty by a
32 court of competent jurisdiction.

33 (2) A description of any civil claim or criminal charge
34 pending or previously pending against a licensee.

1 (3) A description of any civil settlement or judgment
2 entered against a licensee.

3 (4) A description of any final disciplinary action
4 taken against a licensee by the Board.

5 Section 90. Building permit; reporting violations.

6 (a) A building official or other authority charged with
7 issuing building or other similar permits of a county,
8 municipality, or subdivision of a county or municipality shall
9 refuse to issue a permit for an undertaking that would result
10 in the applicant acting as a general building contractor or a
11 specialty contractor under this Act unless the applicant has
12 furnished evidence that the applicant is either licensed as
13 required by this Act or exempt from the requirements of this
14 Act. A building official or other authority charged with
15 issuing building or other similar permits shall report to the
16 Board the name and address of an entity believed to have
17 violated this Act by bidding or contracting for work that is
18 regulated under this Act.

19 (b) The Board shall distribute posters to each building
20 permit office in the State, requesting that the posters be
21 placed in a conspicuous location to be read by applicants.
22 These posters shall state the following: "The General Building
23 Contractor Licensing Act requires certain building
24 construction to be performed by licensed general building
25 contractors or licensed specialty contractors. Both the owner
26 and the contractor are subject to penalties for violations of
27 the law.".

28 (c) Building construction contracting work covered by this
29 Act must be performed by properly licensed general building
30 contractors or licensed specialty contractors. All persons
31 directly employed by the owner to perform work on a project are
32 subject to all applicable State and federal laws concerning
33 occupational safety, family and medical leave, workers'
34 compensation, social security, income tax withholding, and
35 minimum wage requirements. Work performed must comply with all

1 applicable laws, ordinances, building codes, and zoning
2 regulations.

3 Section 95. Bankruptcy notification. A licensee who,
4 voluntarily or involuntarily, is subjected to any provision of
5 the laws of bankruptcy shall notify the Board within 15 days
6 after subjection and provide any and all information pertinent
7 to the bankruptcy proceedings that the Board may require.

8 Section 100. Returned checks; fines. Any person who
9 delivers a check or other payment to the Department pursuant to
10 this Act that is returned to the Department unpaid by the
11 financial institution upon which it is drawn shall pay to the
12 Department, in addition to the amount already owed to the
13 Department, a fine of \$50. The fines imposed by this Section
14 are in addition to any other discipline provided for under this
15 Act for unlicensed practice or practice on a nonrenewed
16 license. The Department shall notify the person that payment of
17 fees and fines shall be paid to the Department by certified
18 check or money order within 30 calendar days after the
19 notification. If, after the expiration of 30 days from the date
20 of the notification, the person has failed to submit the
21 necessary remittance, the Department shall automatically
22 terminate the license or deny the application, without hearing.
23 If, after termination or denial, the person seeks a license, he
24 or she shall apply to the Department for restoration or
25 issuance of the license and pay all of the application fees as
26 set by rule. The Department may establish a fee for the
27 processing of an application for restoration of a license to
28 pay all expenses of processing this application. The Secretary
29 may waive the fines due under this Section in individual cases
30 where the Secretary finds that the fines would be unreasonable
31 or unnecessarily burdensome.

32 Section 105. Deposit of fees. All fees and fines collected
33 under this Act shall be deposited into the General Professions

1 Dedicated Fund and shall be appropriated to the Department for
2 the purpose of administering and enforcing this Act.

3 Section 110. Grounds for disciplinary action.

4 (a) The Department may refuse to issue or to renew or may
5 revoke, suspend, place on probation, reprimand, or take other
6 disciplinary action as the Department may deem proper,
7 including fines, which shall be non-dischargeable in
8 bankruptcy and may not exceed \$5,000 for each violation, with
9 regard to any license or licensee for one or any combination of
10 the following causes:

11 (1) Violation of this Act or its rules.

12 (2) Conviction of any crime under the laws of any U.S.
13 jurisdiction that is a felony, a misdemeanor an essential
14 element of which is dishonesty, or a crime that directly
15 relates to the practice of the profession.

16 (3) Making any misrepresentation for the purpose of
17 obtaining a license.

18 (4) Professional incompetence or gross negligence in
19 the practice of building contracting.

20 (5) Gross malpractice, prima facie evidence of which
21 may be a conviction or judgment of malpractice in any court
22 of competent jurisdiction.

23 (6) Aiding or assisting another person in violating any
24 provision of this Act or rules adopted under this Act.

25 (7) Failing, within 60 days, to provide information in
26 response to a written request made by the Department that
27 has been sent by certified or registered mail to the
28 licensee's last known address.

29 (8) Engaging in dishonorable, unethical, or
30 unprofessional conduct of a character likely to deceive,
31 defraud, or harm the public.

32 (9) Habitual or excessive use of or addiction to
33 alcohol, narcotics, stimulants, or any other chemical
34 agent or drug that results in the inability to practice
35 with reasonable judgment, skill, or safety.

1 (10) Discipline by another U.S. jurisdiction or
2 foreign nation if at least one of the grounds for the
3 discipline is the same or substantially equivalent to those
4 set forth in this Section.

5 (11) Directly or indirectly giving to or receiving from
6 any person, firm, corporation, partnership, or association
7 any fee, commission, rebate, or other form of compensation
8 for any professional services not actually or personally
9 rendered.

10 (12) A finding by the Department that a licensee, after
11 having his or her license placed on probationary status,
12 has violated the terms of probation.

13 (13) Conviction by any court of competent
14 jurisdiction, either within or without this State, of any
15 violation of any law governing the practice of building
16 contracting if the Department determines, after
17 investigation, that such person has not been sufficiently
18 rehabilitated to warrant the public trust.

19 (14) A finding that licensure has been applied for or
20 obtained by fraudulent means.

21 (15) Practicing, attempting to practice, or
22 advertising under a name other than the full name as shown
23 on the license or any other legally authorized name.

24 (16) Gross and willful overcharging for professional
25 services, including filing false statements for collection
26 of fees or moneys for which services are not rendered.

27 (17) Failure to file a tax return or to pay any final
28 assessment of tax, penalty, or interest, as required by any
29 tax Act administered by the Department of Revenue, until
30 such time as the requirements of any such tax Act are
31 satisfied.

32 (18) Failure to continue to meet the requirements of
33 this Act.

34 (19) Physical or mental disability, including
35 deterioration through the aging process or loss of
36 abilities and skills that result in an inability to

1 practice the profession with reasonable judgment, skill,
2 or safety.

3 (20) Material misstatement in furnishing information
4 to the Department or to any other State agency.

5 (21) Advertising in any manner that is false,
6 misleading, or deceptive.

7 (22) The determination by a court that a licensee is
8 subject to involuntary admission or judicial admission as
9 provided in the Mental Health and Developmental
10 Disabilities Code. Such determination shall result in an
11 automatic suspension of a licensee's license. The
12 suspension shall end upon a finding by a court that the
13 licensee is no longer subject to involuntary admission or
14 judicial admission, the issuance of an order so finding and
15 discharging the patient, and the recommendation of the
16 Board to the Secretary that the licensee be allowed to
17 resume practice within the profession.

18 (b) The Department shall deny any license or renewal under
19 this Act to any person who has defaulted on an educational loan
20 guaranteed by the Illinois Student Assistance Commission;
21 however, the Department may issue a license or renewal if the
22 person in default has established a satisfactory repayment
23 record as determined by the Illinois Student Assistance
24 Commission.

25 Section 115. Disclosure of disciplinary action. A person
26 licensed under this Act who has had his or her license
27 suspended or revoked 2 or more times within an 8-year period
28 shall disclose either in capital letters in 10-point boldface
29 type or in contrasting red print in at least 8-point boldface
30 type, in a document provided prior to entering into a contract
31 to perform work on residential property with 4 or fewer units,
32 any disciplinary license suspension or license revocation
33 during the last 8 years resulting from any violation of this
34 Act by the contractor, whether or not the suspension or
35 revocation was stayed.

1 Section 120. Misrepresentation. If any person suffers
2 costs or damages as a result of an individual providing a false
3 or invalid license number or otherwise misleading a person with
4 respect to licensure by the Board, the injured person may bring
5 suit in a court of competent jurisdiction to recover damages.
6 The court may award reasonable attorney's fees to the
7 prevailing party in an action.

8 Section 125. Unlicensed practice; civil penalty.

9 (a) Any person who practices, attempts to practice, or
10 holds himself or herself out as a contractor without being
11 licensed under this Act shall, in addition to any other penalty
12 provided by law, pay a civil penalty to the Department in an
13 amount not to exceed \$5,000 for each offense, as determined by
14 the Department. The civil penalty shall be assessed by the
15 Department after a hearing is held in accordance with the
16 provisions set forth in this Act regarding the provision of a
17 hearing for the discipline of a licensee. Each day of violation
18 constitutes a separate offense.

19 (b) The Department has the authority and power to
20 investigate any and all unlicensed activity.

21 (c) The civil penalty assessed under this Section shall be
22 paid within 60 days after the effective date of the order
23 imposing the civil penalty. The order shall constitute a
24 judgment and may be filed and executed in the same manner as
25 any judgment from any court of record.

26 Section 130. Enforcement; petition to court.

27 (a) If any person violates the provisions of this Act, the
28 Secretary, through the Attorney General of Illinois or the
29 State's Attorney of any county in which a violation is alleged
30 to exist, may, in the name of the People of the State of
31 Illinois, petition for an order enjoining such violation or for
32 an order enforcing compliance with this Act. Upon the filing of
33 a verified petition in such court, the court may issue a

1 temporary restraining order, without notice or bond, and may
2 preliminarily and permanently enjoin such violation, and if it
3 is established that such person has violated or is violating
4 the injunction, the Court may punish the offender for contempt
5 of court.

6 (b) If any person practices as a licensee or holds himself
7 or herself out as a licensee without being licensed under the
8 provisions of this Act, then any person licensed under this
9 Act, any interested party, or any person injured thereby may,
10 in addition to those officers identified in subsection (a) of
11 this Section, petition for relief as provided in subsection (a)
12 of this Section.

13 (c) Whenever the Department has reason to believe that any
14 person has violated the licensing requirements of this Act by
15 practicing, offering to practice, attempting to practice, or
16 holding himself or herself out as a contractor without being
17 licensed under this Act, the Department may issue a rule to
18 show cause why an order to cease and desist should not be
19 entered against that person. The rule shall clearly set forth
20 the grounds relied upon by the Department and shall provide a
21 period of 7 days from the date of the rule to file an answer to
22 the satisfaction of the Department. Failure to answer to the
23 satisfaction of the Department shall cause an order to cease
24 and desist to be issued immediately.

25 (d) Proceedings under this Section shall be in addition to
26 and not in lieu of all other remedies and penalties that may be
27 provided by law.

28 Section 135. Investigation; notice; default. The
29 Department may investigate the actions of any applicant or any
30 person or persons holding or claiming to hold a license. The
31 Department shall, before suspending, revoking, placing on
32 probationary status, or taking any other disciplinary action
33 that the Department may deem proper with regard to any license,
34 at least 30 days prior to the date set for the hearing, notify
35 the accused, in writing, of any charges made and the time and

1 place for a hearing on the charges before the hearing officer,
2 direct the accused to file a written answer with the hearing
3 officer, under oath, within 30 days after the service to the
4 accused, and inform the accused that the accused's license may
5 be suspended, revoked, or placed on probationary status or
6 other disciplinary action may be taken, including limiting the
7 scope, nature, or extent of the accused person's practice, as
8 the Department may deem proper. This written notice may be
9 served by personal delivery or certified or registered mail to
10 the accused. In case the person fails to file an answer after
11 receiving notice, that person's license may, in the discretion
12 of the Department, be suspended, revoked, or placed on
13 probationary status or the Department may take whatever
14 disciplinary action deemed proper, including limiting the
15 scope, nature, or extent of the person's practice or the
16 imposition of a fine, without a hearing, if the act or acts
17 charged constitute sufficient grounds for such action under
18 this Act. At the time and place fixed in the notice, the
19 Department shall proceed to hear the charges, and the parties
20 or their counsel shall be accorded ample opportunity to present
21 such statements, testimony, evidence, and arguments as may be
22 pertinent to the charges or to their defense. The Department
23 may continue such hearing from time to time. At the discretion
24 of the Secretary, after having first received the
25 recommendation of the hearing officer, the accused person's
26 license may be suspended, revoked, or placed on probationary
27 status or other disciplinary action may be taken as the
28 Secretary may deem proper, including limiting the scope,
29 nature, or extent of the person's practice without a hearing,
30 if the act or acts charged constitute sufficient grounds for
31 such action under this Act.

32 Section 140. Stenographer; record of proceedings. The
33 Department, at its expense, shall provide a stenographer to
34 take down the testimony and preserve a record of all
35 proceedings initiated pursuant to this Act, the rules for the

1 administration of this Act or any other Act or rules relating
2 to this Act, and proceedings for restoration of any license
3 issued under this Act. The notice of hearing, complaint, and
4 answer, all other documents in the nature of pleadings and
5 written motions and responses filed in the proceedings, the
6 transcript of the testimony, all exhibits admitted into
7 evidence, the report of the hearing officer, the Board's
8 findings of fact, conclusions of law, and recommendations to
9 the Secretary, and the order shall be the record of the
10 proceedings. The Department shall furnish a transcript of the
11 record to any person interested in the hearing upon payment of
12 the fee required under Section 2105-115 of the Department of
13 Professional Regulation Law (20 ILCS 2105/2105-115).

14 Section 145. Certification of record; costs. The
15 Department shall not be required to certify any record to the
16 court, to file an answer in court, or to otherwise appear in
17 any court in a judicial review proceeding, unless there is
18 filed in the court, with the complaint, a receipt from the
19 Department acknowledging payment of the costs of furnishing and
20 certifying the record. Failure on the part of the plaintiff to
21 file the receipt in court is grounds for dismissal of the
22 action.

23 Section 150. Subpoenas; oaths. The Department has the
24 power to subpoena and bring before it any person in this State
25 to take testimony either orally or by deposition or both or to
26 subpoena documents, exhibits, or other materials with the same
27 fees and mileage and in the same manner as prescribed by law in
28 judicial proceedings in civil cases in circuit courts of this
29 State.

30 The Secretary and any member of the Board have the power to
31 administer oaths to witnesses at any hearing that the
32 Department or Board is authorized by law to conduct. The
33 Secretary has the power to administer any other oaths required
34 or authorized to be administered by the Department under this

1 Act.

2 Section 155. Attendance of witnesses; production of
3 documents; contempt. Any circuit court may, upon application
4 of the Department or its designee or of the applicant or
5 licensee against whom proceedings are pending, enter an order
6 requiring the attendance of witnesses and their testimony and
7 the production of documents, papers, files, books, and records
8 in connection with any hearing or investigation. The court may
9 compel obedience to its order by proceedings for contempt.

10 Section 160. Findings of facts, conclusions of law, and
11 recommendations; order. Within 60 days after the Department's
12 receipt of the transcript of any hearing that is conducted
13 pursuant to this Act or the rules for its enforcement or any
14 other statute or rule requiring a hearing under this Act or the
15 rules for its enforcement or for any hearing related to
16 restoration of any license issued pursuant to this Act, the
17 hearing officer shall submit his or her written findings and
18 recommendations to the Board. The Board shall review the report
19 of the hearing officer and shall present its findings of fact,
20 conclusions of law, and recommendations to the Secretary by the
21 date of the Board's second meeting following the Board's
22 receipt of the hearing officer's report.

23 A copy of the findings of fact, conclusions of law, and
24 recommendations to the Secretary shall be served upon the
25 accused person, either personally or by registered or certified
26 mail. Within 20 days after service, the accused person may
27 present to the Department a written motion for a rehearing,
28 which shall state the particular grounds therefor. If the
29 accused person orders and pays for a transcript pursuant to
30 this Act, then the time elapsing thereafter and before the
31 transcript is ready for delivery to him or her shall not be
32 counted as part of the 20 days.

33 The Secretary shall issue an order based on the findings of
34 fact, conclusions of law, and recommendations to the Secretary.

1 If the Secretary disagrees in any regard with the findings
2 of fact, conclusions of law, and recommendations to the
3 Secretary, he or she may issue an order in contravention of the
4 findings of fact, conclusions of law, and recommendations to
5 the Secretary. If the Secretary issues an order in
6 contravention of the findings of fact, conclusions of law, and
7 recommendations to the Secretary, the Secretary shall notify
8 the Board in writing with an explanation for any deviation from
9 the Board's findings of fact, conclusions of law, and
10 recommendations to the Secretary within 30 days after the
11 Secretary's entry of the order.

12 Section 165. Temporary suspension. The Secretary may
13 temporarily suspend the license of a contractor without a
14 hearing, simultaneously with the institution of proceedings
15 for a hearing provided for in this Act, if the Secretary finds
16 that evidence in his or her possession indicates that
17 continuation in practice would constitute an imminent danger to
18 the public. In the event that the Secretary temporarily
19 suspends a license without a hearing, a hearing by the
20 Department shall be held within 30 days after such suspension
21 has occurred.

22 Section 170. Hearing officers. The Secretary has the
23 authority to appoint any attorney duly licensed to practice law
24 in the State of Illinois to serve as the hearing officer for
25 any action for refusal to issue or renew a license, for
26 discipline of a licensee, for sanctions for unlicensed
27 practice, for restoration of a license, or for any other action
28 for which findings of fact, conclusions of law, and
29 recommendations are required pursuant to this Act. The hearing
30 officer shall have full authority to conduct the hearing and
31 shall issue his or her findings of fact and recommendations to
32 the Board pursuant to this Act.

33 Section 175. Review under Administrative Review Law. All

1 final administrative decisions of the Department are subject to
2 judicial review pursuant to the Administrative Review Law and
3 its rules. The term "administrative decision" is defined as in
4 Section 3-101 of the Code of Civil Procedure.

5 Section 180. Violations. Any person who is found to have
6 knowingly violated any provision of this Act is guilty of a
7 Class A misdemeanor. On conviction of a second or subsequent
8 offense, the violator is guilty of a Class 4 felony.

9 Section 185. Administrative Procedure Act. The Illinois
10 Administrative Procedure Act is hereby expressly adopted and
11 incorporated herein as if all of the provisions of that Act
12 were included in this Act, except that the provision of
13 subsection (d) of Section 10-65 of the Illinois Administrative
14 Procedure Act that provides that, at hearings, the licensee has
15 the right to show compliance with all lawful requirements for
16 retention, continuation, or renewal of the license is
17 specifically excluded. For the purpose of this Act the notice
18 required under Section 10-25 of the Illinois Administrative
19 Procedure Act is deemed sufficient when mailed to the last
20 known address of a party.

21 Section 997. Severability. The provisions of this Act are
22 severable under Section 1.31 of the Statute on Statutes.

23 Section 998. The Regulatory Sunset Act is amended by adding
24 Section 4.28 as follows:

25 (5 ILCS 80/4.28 new)

26 Sec. 4.28. Act repealed on January 1, 2018. The following
27 Act is repealed on January 1, 2018:

28 The General Building Contractor Licensing Act.

29 Section 999. Effective date. This Act takes effect January
30 1, 2008.