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PROCEDURAL RULE
TITLE 28
WEST VIRGINIA CONTRACTOR LICENSING BOARD

SERIES 4
WRITTEN CONTRACTS FOR SERVICES

§28-4-1. General.

1.1. Scope. -- This rule establishes minimum requirements that a licensee must include in a written contract for construction projects with an aggregate value of \$10,000.00 or more. Pursuant to its responsibilities as set forth in W. Va. Code § 21-11-10(c), the Board has adopted a written contract form, attached to this rule as Appendix A, which can be downloaded from the Division's website. A licensee may modify the provisions of the contract form as needed, as long as the modified contract includes the required provisions set forth in Section 4.1 of this rule.

1.2. Authority. -- W. Va. Code §21-11-10(c).

1.3. Filing Date. -- March 16, 2018.

1.4. Effective Date. -- April 16, 2018.

§28-4-2. Definitions.

In addition to the definitions in this section, the definitions in W. Va. Code §21-11-3 are incorporated herein by reference.

2.1. "Act" means the West Virginia Contractor Licensing Act, W. Va. Code § 21-11-1, *et seq.*

2.2. "Aggregate value" means the total combined cost of materials and labor for an entire construction project, including the cost of materials and labor furnished by a licensee and subcontractors, and the cost of materials furnished by the owner, if any.

2.3. "Board" means the West Virginia Contractor Licensing Board or its authorized representatives.

2.4. "Days" means business days unless otherwise stated.

2.5. "Division" means the West Virginia Division of Labor or its authorized representatives.

2.6. "Licensee" means a contractor who has been issued a valid contractor license pursuant to the provisions of the Act. As used in this rule, "licensee" also means the principal or general contractor.

2.7. "Owner" means the person for whom the licensee performs construction work.

§28-4-3. Written Contracts Required.

Pursuant to the provisions of W. Va. Code § 21-11-10(b), prior to performing construction work on a

project with an aggregate value of \$10,000.00 or more, a licensee shall have a written contract with an owner and with any subcontractor that the licensee hires to work on the project.

§28-4-4. Contract Form; Required Contract Provisions; Required Change Orders; Suggested Contract Provisions.

4.1. While there is no required format for a written contract, the written contract shall include at least the following provisions:

4.1.a. The licensee's name and business address;

4.1.b. The owner's name, address, and project address or location if different from the owner's address;

4.1.c. A description of the work to be performed by the licensee, including a description of the materials to be furnished by the licensee;

4.1.d. A description of the work to be performed by any subcontractors the licensee anticipates hiring, including a description of the materials to be furnished by the subcontractors;

4.1.e. A description of materials the owner intends to furnish, if any;

4.1.f. The total cost of the project and the terms of payment, including specification of a payment schedule;

4.1.g. The project start and completion dates;

4.1.h. A statement requiring the licensee and owner to sign and date a written authorization for any additions, modifications, or changes to the description of work to be performed, to the contract price, or to any other changes to the terms and conditions of the contract;

4.1.i. Statement that licensee will enter into a written contract with any subcontractor that licensee hires to work on the project, and that the written contract between licensee and subcontractor will include all relevant provisions, terms and conditions as the contract between licensee and owner;

4.1.j. Licensee's contractor license number and classifications;

4.1.k. A statement that all employees on the project, including employees of any subcontractor, are legally authorized to work in the United States;

4.1.l. Licensee's workers' compensation policy number and unemployment insurance account number;

4.1.m. Description of any additional provisions, terms or conditions of the contract;

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4.1.n. Authorized licensee's signature, printed name, title, date, taxpayer ID number, business telephone number and email address; and

4.1.o. Authorized owner signature, printed name, title, date, email address and telephone number.

4.2. The Board recommends that a licensee include at least the following additional provisions in a written contract:

4.2.a. If any permits or licenses are required for the project, specification of who is responsible for obtaining and paying for them;

4.2.b. A description of licensee's warranties, if any;

4.2.c. A statement regarding licensee's and owner's responsibilities with regard to liens and lien waivers;

4.2.d. A description of licensee's responsibilities for construction site maintenance, storage of equipment, materials and supplies, normal hours of work, and hours of work for loud construction activities; and

4.2.e. A description of licensee's responsibilities with regard to any subcontractors that are hired by licensee.

§28-4-5. Licensee's Failure to Execute a Written Contract.

A licensee who fails to execute a written contract as required by W. Va. §21-11-10(b) and this rule may be subject to disciplinary action by the Board as provided for in W. Va. Code §21-11-14.

§28-4-6. Licensee's Obligation to Provide the Board or Division With a Copy of a Written Contract.

6.1. Upon request by the Board or Division, a licensee shall submit copies of its written contracts.

6.2. If a licensee fails to submit copies of the requested contracts within 10 days of the Board's or Division's request, the licensee may be subject to disciplinary action by the Board as set forth in W. Va. Code §21-11-14.

§28-4-7. Exemption of Manufactured Housing Construction and Safety Standards Board Licensees For the Initial Installation of a HUD-Code Manufactured Home.

Licensees of the West Virginia Manufactured Housing Construction and Safety Standards Board are exempt from compliance with this Board's written contract requirements for the initial installation of a HUD-Code manufactured home.