

ENROLLED ACT NO. 58, HOUSE OF REPRESENTATIVES

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2008 BUDGET SESSION

AN ACT relating to water well drilling contractors and water well pump installation contractors; providing for licensure; providing certain exemptions; establishing licensing procedures; providing for fees; providing for examinations and continuing education requirements; providing for reciprocity; providing for license revocation and suspension; providing penalties; making conforming amendments; providing for the redistribution of certain funds; providing a sunset for certain provisions; creating an account to administer the board of examining water well drilling contractors and water well pump installation contractors as specified; providing for a continuous appropriation; repealing certain reciprocity provisions; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 33-42-112 through 33-42-117 are created to read:

33-42-112. Exemptions.

(a) Upon submitting satisfactory evidence to the board, any person who has been actively engaged as a water well drilling contractor or a water well pump installation contractor in the state of Wyoming for the five (5) years prior to July 1, 2008, shall be exempt from the oral or written examination requirements pursuant to W.S. 33-42-108 and 33-42-110 until June 30, 2009. Satisfactory evidence may include written affidavits from three (3) individuals competent to attest to the applicant's professional work experience.

(b) Any Wyoming water well drilling contractor or water well pump installation contractor certified pursuant

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to W.S. 33-42-101 through 33-42-111 by June 30, 2009, shall be exempt from oral or written examination requirements pursuant to W.S. 33-42-108 and 33-42-110.

(c) All applicants shall be required to pay all applicable fees.

(d) If a water well drilling contractor or pump installation contractor is not licensed by June 30, 2009, he shall comply with all the requirements of W.S. 33-42-108, including taking and passing the examination.

(e) The licensure requirements of this chapter shall not apply to any person drilling an oil or gas well or installing a pump in an oil or gas well, where the oil or gas well is permitted pursuant to W.S. 30-5-115.

(f) The licensure requirements of this chapter shall not apply to any person:

(i) Installing a pump in a well on land owned or leased by him or on which he is employed on a regular basis;

(ii) Drilling a monitor well that does not require a permit from the state engineer;

(iii) Drilling a well on land owned by him.

(g) Subsections (a) through (d) of this section are repealed July 1, 2009.

33-42-113. License renewal.

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(a) In order to be eligible to renew a license, a licensed water well drilling contractor or water well pump installation contractor shall:

(i) Complete eighteen (18) professional competence hours in three (3) years, as established by the board;

(ii) Submit payment of all applicable fees; and

(iii) Comply with all requirements under W.S. 33-42-111(a).

33-42-114. Reciprocity.

If a person holding a license entitling him to drill water wells or install pumping equipment in another state applies for a Wyoming water well drilling contractor's or water well pump installation contractor's license, if the other state offers reciprocity, and if the board determines the standards and requirements of the state in which the applicant is licensed are equal to or exceed the standards or requirements of this act, the board may waive the examination requirements except the applicant shall successfully complete an examination based on Wyoming statutes and rules relating to the drilling of water wells or installation of pump equipment. The applicant shall also pay all applicable fees.

33-42-115. Complaints and investigations.

If any information concerning a possible violation of this act or rules and regulations applicable to water well drilling or pump installation is received or obtained by a board member or the state engineer's office, the board may, on its own motion, initiate proceedings under this act and

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in accordance with the Wyoming Administrative Procedure Act.

33-42-116. Account; expenditures.

The water well contractors account is created. Funds provided under W.S. 9-1-904(b), 33-42-105(d) and 33-42-109(d) shall be deposited into the account. Income earned on amounts within the account shall be credited to the account. Funds in the account are continuously appropriated to the board for the operation and management of the board and the administration of this act.

33-42-117. Penalties.

A violation of any provision of this act is a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000.00), imprisonment for not more than six (6) months, or both.

Section 2. W.S. 9-1-904 by creating a new subsection (b), 33-42-102(a)(vi), 33-42-103, 33-42-104(c), 33-42-105(d), 33-42-107(a)(iii), (v) and (vi), 33-42-108(a)(intro) and (iii), 33-42-109, 33-42-110 and 33-42-111(a)(intro), (i) and (b) are amended to read:

9-1-904. Collection of fees.

(b) The state engineer shall specify by rule and regulation an amount not to exceed twenty-five dollars (\$25.00) of the fees collected for each application for a permit under subparagraphs (a)(v)(A) and (D) of this section to be deposited into the account created under W.S. 33-42-116 for wells which require the use of a licensed well driller pursuant to W.S. 33-42-103.

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33-42-102. Definitions.

(a) As used in this act:

(vi) "This act" means W.S. 33-42-101 through ~~33-42-111~~ 33-42-117.

33-42-103. License.

(a) It is unlawful for any person to use in connection with his name or to advertise any title or description tending to convey the impression that he is a ~~certified~~ licensed water well drilling contractor or water well pump installation contractor unless he has been ~~certified~~ licensed under this act.

(b) The drilling, construction or completion of water wells, including the installation of pumping equipment, shall be considered a business activity affecting the public interest and requiring reasonable standards of competence.

(c) The licensing of water well drilling contractors and the licensing of water well pump installation contractors are separate and distinct activities. Licensing requirements shall be specific to each profession and shall be addressed in rules and regulations.

(d) A copy of the license of a licensed water well drilling licensee or water well pump installation licensee overseeing the job and assuming liability for the water well drilling or water well pump installation shall be conspicuously posted at the water well drilling or water well pump installation site.

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(e) Nothing in this act shall be construed to require licensure of any person operating drilling equipment or conducting other drilling or boring operations which do not require a permit from the state engineer to appropriate ground water.

(f) It shall be unlawful for any person to construct, alter or rehabilitate a water well or install pumping equipment in a water well without a license as provided by this act unless the activity is exempted from the licensing requirements of this act.

33-42-104. Board of examining water well drilling contractors and water well pump installation contractors created; composition; appointment; terms; vacancies; qualification; compensation.

(c) Each member of the board appointed by the governor shall have been a resident of this state for at least one (1) year at the time of his appointment. Each contractor board member shall have been engaged in the practice of his profession for at least five (5) years prior to his appointment. After the appointment of the initial board, any water well drilling contractor or water well pump installation contractor appointed to the board shall be ~~certified~~ licensed within six (6) months after appointment.

33-42-105. Organization of board; meetings; quorum; disposition of funds.

(d) Fees collected by the board shall be paid into the ~~state treasury and credited to an~~ account created under W.S. 33-42-116 which shall be used by the board to defray costs incurred in the administration of this act. The board shall not maintain unnecessary fund balances.

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33-42-107. Duties of the board.

(a) The board shall:

(iii) Examine the qualifications of anyone desiring to obtain a ~~certification~~license to engage in the business of water well drilling or the business of water well pump installing within the state;

(v) Conduct hearings upon complaints with respect to any person ~~certified~~licensed under this act in conformity with the Wyoming Administrative Procedure Act. The hearing shall be held in the county where the complaint originated; and

(vi) Establish continuing education for persons ~~certified~~licensed to maintain knowledge of current industry standards. However, the board shall not impose continuing education requirements for any person which exceed eighteen (18) hours in any three (3) year period.

33-42-108. Licensure in general; qualifications of applicant; operator's license.

(a) The board shall issue a ~~certificate~~license to an applicant who:

(iii) Has paid the required ~~fee~~fees; and

33-42-109. Fees; renewal; renewal of lapsed licenses; suspension or revocation.

(a) The board shall establish reasonable and necessary fees pursuant to W.S. 33-1-201 for:

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(i) Application fees;

(ii) Certification fees and fees for renewal of certification. Certification fees shall not exceed two hundred dollars (\$200.00). Certification renewal fees shall not exceed two hundred dollars (\$200.00) for a three (3) year period thereafter. This paragraph is repealed July 1, 2009.

~~(i)(iii)~~ Examination and reexamination of ~~certification~~ license applicants;

(iv) Miscellaneous fees, including rosters, annual reports, address labels, copying fees and replacement licenses;

(v) License fees. License fees shall not exceed two hundred dollars (\$200.00). License renewal fees shall not exceed two hundred dollars (\$200.00) for each three (3) year renewal period thereafter.

(b) The initial license shall be for a period not to exceed three (3) years and shall expire on the third December 31 after receiving the initial license. Each subsequent license shall be valid for three (3) calendar years and shall expire on December 31 of the third year.

(c) If a licensed water well drilling contractor or water well pump installation contractor does not submit an application for license renewal prior to the December 31 expiration date or does not remit the renewal fees, the license shall expire. The contractor shall have a thirty-one (31) day grace period to renew the expired license. If the license has not been renewed before February 1 of the new license period, it shall not be eligible for

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reinstatement until the applicant has met all the requirements of W.S. 33-42-108.

(d) All fees collected under this section shall be deposited into the account created under W.S. 33-42-116.

33-42-110. Examination; notification; reexamination.

(a) An applicant for a license shall demonstrate professional competence by passing a written or oral examination prescribed by the board.

~~(a)~~(b) An examination shall be given at least twice annually. The examination shall be given at a location designated by the board.

~~(b)~~(c) The written or oral examination shall ~~consist of a written or oral examination testing test~~ the applicant's general knowledge of the basics of well construction and state law or pump installation procedures, Wyoming laws, rules, regulations and local ordinances concerning the construction of water wells or installation of water well pumps and pumping equipment.

~~(c)~~(d) Not less than thirty (30) days prior to examination the board shall notify each applicant that his application and evidence submitted for certification licensing is satisfactory and accepted or unsatisfactory and rejected. If rejected, the reasons for rejection shall be given. The notice shall include the date and location of the examination.

~~(d)~~(e) In the event an applicant fails to receive a passing grade on examination, he may reapply for examination within ninety (90) days.

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(f) The board may contract with examination development consultants, water well technical experts, water pump installation technical experts or other technical experts as deemed necessary to prepare the examinations and may assign a member or members of the board to work with the consultants and technical experts to assure compliance with the requirements of this act.

33-42-111. Denial, revocation or suspension of license; hearing.

(a) The board may withhold, deny, revoke or suspend any certificate or license issued or applied for in accordance with the provisions of this act upon proof that the certificate or license holder or applicant:

(i) Has used fraud or deception in applying for a certificate or license or in the taking of the examination;

(b) No certificate or license may be suspended or revoked unless there has been a hearing in conformity with the provisions of the Wyoming Administrative Procedure Act.

Section 3. W.S. 33-42-108(c) and (d) is repealed.

Section 4. Any fees collected by the board and remaining in the account pursuant to W.S. 33-42-105(d) prior to the effective date of this act shall be transferred to the account created under W.S. 33-42-116.

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Section 5. This act is effective July 1, 2008.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk