

**REPORT OF THE
DEPARTMENT OF PROFESSIONAL AND
OCCUPATIONAL REGULATION**

**Report on the Establishment of a Pilot
Program for Local Assistance with the
Investigation of Complaints and the
Implementation of Final Disciplinary
Orders of the Board for Contractors**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



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COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

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November 1, 2004

MEMORANDUM

TO: The Honorable Mark R. Warner, Governor of Virginia
Members of the General Assembly

FROM: Louise Fontaine Ware, Director

**RE: REPORT ON THE ESTABLISHMENT OF A PILOT PROGRAM
PURSUANT TO CHAPTERS 776 AND 789 OF THE 2004 ACTS OF THE
GENERAL ASSEMBLY**

Pursuant to House Bill 454 and Senate Bill 285, passed by the 2004 session of the Virginia General Assembly, the Department of Professional and Occupational Regulation (DPOR) established a pilot program to implement a cooperative agreement with more than one locality to assist in the investigation of complaints and the implementation of final disciplinary orders of the Board for Contractors. This report was produced with the assistance of the Board for Contractors. As prescribed by this legislation, I would like to offer this report for your consideration.

This report is available from the Department's website at www.dpor.virginia.gov. A hard copy may be obtained by contacting Eric Olson, Executive Director of the Board for Contractors, at (804) 367-2785 or eric.olson@dpor.virginia.gov.

ACKNOWLEDGMENT

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EXECUTIVE SUMMARY

The purpose of this report is to assess the progress of the Department of Professional and Occupational Regulation (DPOR) in the establishment of a pilot program, consisting of a cooperative agreement with at least one local governing body, to assist in the investigation of complaints and the implementation of final disciplinary orders of the Board for Contractors (the Board), as required by SB 285 and HB 454 of the 2004 General Assembly Session.

The Board, through the provisions of Chapter 11 of Title 54.1 of the *Code of Virginia*, is tasked with the licensing of contractors and the sanctioning of contractors who violate those statutes or regulations promulgated by the Board. As required in the legislation, the Board has joined in agreements with two localities and is in the discussion phase with several others. While the provisions of the legislation require the implementation of a pilot program with a single locality, DPOR felt that, in order to get relevant data on the impact of such a program, a variety of geographic and demographic areas should be selected.

The legislation provides for two reports, the second to be presented on or before November 1, 2005. This report will provide background information and details on the implementation of the pilot agreements currently in place. The 2005 report will provide a summary of the impact of the programs along with supporting data.

STATUTORY AUTHORITY

SB 285 and HB 454 (2004) require:

That the Director of the Department of Professional and Occupational Regulation and the Board for Contractors shall establish a pilot program consisting of a cooperative agreement with at least one local governing body that authorizes the building official of such locality to assist in the investigation of complaints and the implementation of final disciplinary orders of the Board. Nothing in this act shall be construed to limit any independent actions of the Director to carry out his responsibilities under Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia and to assure compliance with the laws of the Commonwealth.

The *Code* grants the Board the statutory authority to fine, suspend, revoke, deny renewal or assign continuing education to contractors as a result of a violation of the regulations. Investigations and administrative proceedings are conducted by DPOR staff, in accordance with the Administrative Process Act, while the power to levy sanctions and impose final orders rests solely with the Board.

BACKGROUND

Several geographic regions in the Commonwealth of Virginia have experienced phenomenal rates of growth during the past several years, resulting in the construction of a large number of homes to accommodate that growth. The number of contractors licensed by the Board has kept pace with that growth, experiencing an increase of greater than 25 percent over the past five years. Inherent with that growth is an increase in complaints against contractors and a related increase in disciplinary action taken by the Board.

In Fiscal Year 2004, Prince William County – one of Virginia’s localities experiencing a rapid rate of growth – approached DPOR and the Board with a perplexing problem: how to protect a growing number of citizens from licensed contractors who were, perhaps because of the increased workload, not responding to requests to return to new homes to address “punch-list” items (generally, minor defects in home construction found after the owner has moved into the new home). Contractors were reportedly becoming non-respondent to the efforts of both the homeowner and the local government to requests to return to completed homes to address these “punch-list” items.

As a result of contact between the staffs of DPOR and the Board with representatives of Prince William County, HB 454 and SB 285 were introduced and passed during the 2004 General Assembly Session, directing DPOR to establish a pilot program for local enforcement of licensure. Looking to expand on the basic objective of the legislation, DPOR sought participation from several localities in a variety of geographic regions with a wide variance in population.

Although the *Code* imposes limitations on the scope of authority that may be granted to individual localities, the agreements initiated by DPOR emphasize those areas that, upon implementation, should result in less consumer exposure to financial damage caused by licensed contractors. With a concentrated emphasis on communication and education, these pilot agreements provide numerous opportunities for the participating localities and DPOR to better protect and serve those citizens most vulnerable to harm caused by licensed contractors.

IMPLEMENTATION

DPOR tailored the pilot agreements for each locality based on a number of factors, including population, geographic location and specific needs. For example, a locality situated on the state border likely experiences difficulties with contractors performing work in the area without holding an appropriate Virginia license, while a jurisdiction located in the central portion of the faces challenges of a different nature.

The primary provisions of the agreements entail communication of disciplinary action and potential violations of the Board's regulations, as well as a concerted joint effort to provide education to both consumers and local staff members. Tantamount is the implementation of a notification system that provides a rapid dissemination of Board disciplinary action to the localities, and a cooperative effort by the locality to identify licensed contractors who are not adhering to provisions of the Virginia Uniform Statewide Building Code (especially in administrative areas such as permit applications and inspection requirements).

DPOR and the Board believe strongly that a well informed public – educated in contractor licensing requirements and given adequate tools to identify potential fraudulent situations – is the most effective means to achieving a decrease in complaints, as those contractors prone to questionable activity would be forced out of business due to an inability to locate an adequate customer (victim) base.

Increased education for local personnel – such as permitting clerks, inspectors, and business license staff – in the Board's licensing requirements will add an additional layer of consumer protection, as a cadre of knowledgeable individuals is placed strategically in those local government offices most frequented by contractors and, to a lesser extent, consumers.

CONCLUSION

As of November 1, 2004, two localities signed Memorandums of Agreement with DPOR: the Town of Bluefield and Nelson County. Prince William County officials have tentatively approved the agreement and are awaiting final authority from the Board of Supervisors. Discussions are underway with Arlington County, Henrico County and the City of Chesapeake, with a goal of instituting agreements with those jurisdictions by December 1, 2004.

DPOR anticipates that the pilot agreements' combination of streamlined communication and increased education will:

- Serve consumers by reducing the public's exposure to questionable contractors;
- Benefit participating localities by providing an additional layer of protection to citizens;
- Promote competent contractors by discouraging the hiring of unlicensed or unscrupulous individuals; and
- Improve efficiencies at DPOR by eventually reducing the number of complaints requiring processing.

Throughout the course of the agreements, relevant statistical data will be compiled and included in the report required November 1, 2005.

APPENDIX

2004 ACTS OF THE GENERAL ASSEMBLY - CHAPTER 776

An Act to direct the Director of the Department of Professional and Occupational Regulation and the Board for Contractors to establish a pilot program for local enforcement of licensure.

[S 285]

Approved April 14, 2004

Be it enacted by the General Assembly of Virginia:

1. § 1. *That the Director of the Department of Professional and Occupational Regulation and the Board for Contractors shall establish a pilot program consisting of a cooperative agreement with at least one local governing body that authorizes the building official of such locality to assist in the investigation of complaints and the implementation of final disciplinary orders of the Board. Nothing in this act shall be construed to limit any independent actions of the Director to carry out his responsibilities under Chapter 11 (§ [54.1-1100](#) et seq.) of Title 54.1 of the Code of Virginia and to assure compliance with the laws of the Commonwealth.*

§ 2. *The Director of the Department of Professional and Occupational Regulation and the Board for Contractors shall submit a report on or before November 1, 2004, and on or before November 1, 2005, to the Governor and the General Assembly on progress made in the development and implementation of any pilot program established pursuant to this act.*

2. That the provisions of this act shall expire on July 1, 2006.

2004 ACTS OF THE GENERAL ASSEMBLY - CHAPTER 789

An Act to direct the Director of the Department of Professional and Occupational Regulation and the Board for Contractors to establish a pilot program for local enforcement of licensure.

[H 454]

Approved April 14, 2004

Be it enacted by the General Assembly of Virginia:

1. § 1. *That the Director of the Department of Professional and Occupational Regulation and the Board for Contractors shall establish a pilot program consisting of a cooperative agreement with at least one local governing body that authorizes the building official of such locality, to assist in the investigation of complaints and the implementation of final disciplinary orders of the Board. Nothing in this act shall be construed to limit any independent actions of the Director to carry out his responsibilities under Chapter 11 (§ [54.1-1100](#) et seq.) of Title 54.1 of the Code of Virginia and to assure compliance with the laws of the Commonwealth.*

§ 2. *The Director of the Department of Professional and Occupational Regulation and the Board for Contractors shall submit a report on or before November 1, 2004, and on or before November 1, 2005, to the Governor and the General Assembly on progress made in the development and implementation of any pilot program established pursuant to this act.*

2. That the provisions of this act shall expire on July 1, 2006.