**Unlicensed Contractors, Unenforced Codes, & Consumer Protection**

Builders Association of Minnesota (October 2017)

Remi Stone, Executive Vice President

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Currently there is a gap in the state law about what happens when a permit is pulled outside city limits where the building code is not enforced. The enforcement gap continues within city limits where building codes are enforced but homeowners are pulling permits for work to be done unlicensed contractors. The gaps are causing some significant problems as it relates to unlicensed contractors working in areas where there is no building code enforcement or when permits are being pulled to avoid code inspections.

This is an ongoing issue for the industry and one that BAM elevates before state legislators with a very clear message – the state and local governments must make licensure and code enforcement meaningful and if political will is not there to make a government mandate meaningful, then the legislature should consider whether these mandates on legitimate, small businesses should be repealed.

Representative Tama Theis (R-St. Cloud) has championed this issue for the industry and on September 25, 2017 the House Job Growth and Energy Affordability Policy and Finance Committee heard Rep. Theis’ most recent bill on the matter, HF 1119. The bill increases the criminal penalties on those performing builder contractor work as an unlicensed individual. The bill passed quickly and will be ready to go immediately upon the start of the 2018 session. This bill is just one tweak to a statutory licensing scheme that is riddled with loopholes and vagueness.

State law also allows for a significant number of jurisdictions to opt out of the building code enforcement process. This can lead to unsafe construction for the homeowner pulling the permit, denied access to consumer protections such as the contractor recovery fund, loss of revenue for the jurisdiction, and unfair business practices by unlicensed contractors.

The Builder Association of Minnesota supports the concept of licensing for contractors, however licensing is only as effective as the enforcement behind the requirement. If the state is not able to properly enforce licensed contractors or the building code, we should reconsider licensing for the residential construction industry.

BAM’s 2018 legislative agenda is heavy on improving the licensing and code inspection system. In addition to HF 1119, BAM will be advocating for other changes including:

* *Statewide code enforcement:*
  + *Removing all local government opt out provisions for adoption and/or inspections.*
  + *Establish an inspection system similar to the electrical inspections for building inspectors as an option to municipal inspections.*
  + *Provide clarity on who is responsible for inspections – either the state or local governments.*
* *Prevent any banking entity from issuing mortgages for new or remodeling construction without a licensed contractor with a valid license number performing the work.*
* *Prevent any insurance entity from selling an general liability or Workers Compensation policy to a residential construction entity without a current license.*
* *Delete the self-contracting homeowner exception.*
* *OR the get out of the enforcement business altogether (including elimination of the Contractor Recovery Fund, the enforcement division of the DOLI) and pre-empt local governments from having individual local licenses.*

Members interested in this issue and other legislative initiatives are encouraged to join BAM’s government affairs committee.

***Since 1974, BAM is the statewide voice of Minnesota's builders & remodelers. We represent you and your business at the State's Capitol, regulatory agencies and the courts because industry unity is good business.***

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