

## CHAPTER 326

## EMPLOYMENTS LICENSED BY STATE

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## 326.01 DEFINITIONS.

*[For text of subd 1, see M.S.1990]*

Subd. 2. **Class a master electrician.** The term "Class A master electrician" means a person having the necessary qualifications, training, experience, and technical knowledge to install, alter, repair, plan, lay out, and supervise the installing, altering, and repairing of electrical wiring, apparatus, and equipment for light, heat, power, and other purposes who is licensed as such by the board of electricity.

Subd. 3. **Class a journeyman electrician.** The term "Class A journeyman electrician" means a person having the necessary qualifications, training, experience, and technical knowledge to install, alter, repair, and supervise the installing, altering, or repairing of electrical wiring, apparatus, and equipment for light, heat, power, and other purposes who is licensed as such by the board of electricity.

Subd. 4. **Special electrician.** The term "special electrician" means a person having the necessary qualifications, training, experience, and technical knowledge to install, alter, repair, and supervise the installing, altering, or repairing of special classes of electrical wiring, apparatus, or equipment for light, heat, power, and other purposes or for special classes of electrical work who is licensed as such by the board of electricity. The scope of any special electrician license created by the board under section 326.242, subdivision 4, shall be limited to that provided for by the rules adopted by the board.

Subd. 5. **Electrical contractor.** The term "electrical contractor" means a person, partnership, or corporation operating a business that undertakes or offers to undertake to plan for, lay out, or install or to make additions, alterations, or repairs in the installation of electrical wiring, apparatus, or equipment for light, heat, power, and other purposes with or without compensation who is licensed as such by the board of electricity. An electrical contractor's license does not of itself qualify its holder to perform or supervise the electrical work authorized by holding any class of electrician's license.

Subd. 6. **Class b master electrician.** The term "Class B master electrician" means a person having the necessary qualifications, training, experience, and technical knowledge to install, alter, repair, plan, lay out, and supervise the installing, altering, and repairing of electrical wiring, apparatus, and equipment for single phase systems of not over 200 ampere capacity for light, heat, power, and other purposes on any farm or in any single family dwelling located in any town or municipality which has a population of less than 2500 inhabitants who is licensed as such by the board of electricity.

Subd. 6a. **Class b journeyman electrician.** The term "Class B journeyman electrician" means a person having the necessary qualifications, training, experience, and technical knowledge to install, alter, repair, and supervise the installing, altering, or repairing of electrical wiring, apparatus, and equipment for single phase systems of not

more than 200 ampere capacity for light, heat, power, and other purposes on any farm or in any single family dwelling located in any town or municipality which has a population of less than 2500 inhabitants who is licensed as such by the board of electricity.

*[For text of subs 6b to 6e, see M.S.1990]*

**Subd. 6f. Electrical work.** The term "electrical work" means the installing, altering, repairing, planning, or laying out of electrical wiring, apparatus, or equipment for light, heat, power, or other purposes. The installing, alteration, repairing, planning, or laying out of electrical wiring, apparatus, or equipment for light, heat, power, or other purposes includes, but is not limited to, the performance of any work governed by the standards referred to in section 326.243.

**Subd. 6g. Personal supervision.** The term "personal supervision" means that a licensed electrician oversees and directs the electrical work performed by an unlicensed person such that:

(1) the licensed electrician actually reviews the electrical work performed by the unlicensed person;

(2) the licensed electrician is immediately available to the unlicensed person at all times for assistance and direction; and

(3) the licensed electrician is able to and does determine that all electrical work performed by the unlicensed person is performed in compliance with section 326.243.

The licensed electrician is responsible for the compliance with section 326.243 of all electrical work performed by the unlicensed person.

**Subd. 6h. Complaint committee.** The term "complaint committee" means a committee of the board which is authorized by the board or other provisions of chapter 214 or sections 326.241 to 326.248 to investigate, mediate, or initiate administrative or legal proceedings on behalf of the board with respect to complaints filed with or information received by the board alleging or indicating violations of sections 326.241 to 326.248. The complaint committee shall consist of at least one board member, the board's executive secretary, its assistant executive secretary, and the attorney general staff member assigned to provide legal services to the board.

*[For text of subs 7 to 20, see M.S.1990]*

**History:** 1991 c 289 s 1-9

### **326.04 BOARD OF ARCHITECTURE, ENGINEERING, LAND SURVEYING AND LANDSCAPE ARCHITECTURE.**

To carry out the provisions of sections 326.02 to 326.15 there is hereby created a board of architecture, engineering, land surveying and landscape architecture (hereinafter called the board) consisting of 17 members, who shall be appointed by the governor. Three members shall be licensed architects, five members shall be licensed engineers, one member shall be a licensed landscape architect, two members shall be licensed land surveyors and six members shall be public members. Not more than one member of said board shall be from the same branch of the profession of engineering. The first landscape architect member shall be appointed as soon as possible and no later than 60 days after August 1, 1975 and shall serve for a term to end on January 1, 1977. Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements shall be as provided in sections 214.07 to 214.09. The provision of staff, administrative services and office space; the review and processing of complaints; the setting of board fees; and other provisions relating to board operations shall be as provided in chapter 214.

**History:** 1991 c 199 art 1 s 50

### **326.241 BOARD OF ELECTRICITY.**

*[For text of subd 1, see M.S.1990]*

Subd. 2. **Powers.** The board, or the complaint committee on behalf of the board where authorized by law, shall have power to:

(1) Elect its own officers.

(2) Engage and fix the compensation of inspectors, and hire employees. The salary of the executive secretary shall be established pursuant to chapter 43A. All agents and employees other than contract inspectors shall be in the classified service and shall be compensated pursuant to chapter 43A. All inspectors shall hold licenses as master or journeyman electricians under section 326.242, subdivision 1(1) or 2(1), and shall give bond in an amount fixed by the board, conditioned upon the faithful performance of their duties.

(3) Pay such other expenses as it may deem necessary in the performance of its duties, including rent, supplies, and such like.

(4) Enforce the provisions of sections 326.241 to 326.248, and provide, upon request, such additional voluntary inspections and reviews as it may deem appropriate.

(5) Issue, renew, refuse to renew, suspend, temporarily suspend, and revoke licenses, censure licensees, assess civil penalties, issue cease and desist orders, and seek injunctive relief and civil penalties in court as authorized by section 326.242 and other provisions of Minnesota law.

(6) Adopt reasonable rules to carry out its duties under sections 326.241 to 326.248 and to provide for the amount and collection of fees for inspection and other services. All rules shall be adopted in accordance with chapter 14.

*[For text of subd 3, see M.S.1990]*

**History:** 1991 c 289 s 10

### **326.242 LICENSES.**

**Subdivision 1. Master electrician.** Except as otherwise provided by law, no person shall install, alter, repair, plan, lay out, or supervise the installing, altering, or repairing of electrical wiring, apparatus, or equipment for light, heat, power, or other purposes unless the person is: (a) licensed by the board as a master electrician and (b)(i) the electrical work is for a licensed electrical contractor and the person is an employee, partner, or officer of, or is the licensed electrical contractor, or (ii) the electrical work is performed for the person's employer on electric wiring, apparatus, equipment, or facilities owned or leased by the employer which is located within the limits of property which is owned or leased and operated and maintained by the employer.

(1) An applicant for a Class A master electrician's license shall (a) be a graduate of a four-year electrical course in an accredited college or university; or (b) shall have had at least one year's experience, acceptable to the board, as a licensed journeyman; or (c) shall have had at least five years' experience, acceptable to the board, in planning for, laying out, supervising and installing wiring, apparatus, or equipment for electrical light, heat and power.

(2) As of August 1, 1985, no new Class B master electrician's licenses shall be issued. An individual who has a Class B master electrician's license as of August 1, 1985 may retain the license and exercise the privileges it grants, which include electrical work limited to single phase systems, not over 200 amperes in capacity, on farmsteads or single-family dwellings located in towns or municipalities with fewer than 2,500 inhabitants.

**Subd. 2. Journeyman electrician.** (a) Except as otherwise provided by law, no person shall install, alter, repair, or supervise the installing, altering, or repairing of electrical wiring, apparatus, or equipment for light, heat, power, or other purposes unless:

(1) the person is licensed by the board as a journeyman electrician; and

(2) the electrical work is:

(i) for an electrical contractor and the person is an employee, partner, or officer of the licensed electrical contractor; or

(ii) performed under the supervision of a master electrician also employed by the person's employer on electrical wiring, apparatus, equipment, or facilities owned or leased by the employer that is located within the limits of property owned or leased, operated, and maintained by the employer.

(b) An applicant for a Class A journeyman electrician's license shall have had at least four years of experience, acceptable to the board, in wiring for, installing, and repairing electrical wiring, apparatus, or equipment, provided however, that the board may by rule provide for the allowance of one year of experience credit for successful completion of a two-year post high school electrical course approved by the board.

(c) As of August 1, 1985, no new Class B journeyman electrician's licenses shall be issued. An individual who holds a Class B journeyman electrician's license as of August 1, 1985 may retain the license and exercise the privileges it grants, which include electrical work limited to single phase systems, not over 200 amperes in capacity, on farmsteads or on single-family dwellings located in towns or municipalities with fewer than 2,500 inhabitants.

**Subd. 3. Class A installer.** Notwithstanding the provisions of subdivisions 1, 2, and 6, any person holding a class A installer license may lay out and install and supervise the laying out and installing of electrical wiring, apparatus, or equipment for major electrical home appliances on the load side of the main service on farmsteads and in any town or municipality with fewer than 1,500 inhabitants, which is not contiguous to a city of the first class and does not contain an established business of an electrical contractor.

*[For text of subds 3a to 3c, see M.S.1990]*

**Subd. 4. Special electrician.** Notwithstanding the provisions of subdivisions 1, 2, 6, and 7, the board may by rule provide for the issuance of special electrician licenses empowering the licensee to engage in a limited class or classes of electrical work, which class or classes shall be specified on the license certificate. Each licensee shall have had at least two years of experience, acceptable to the board, in each such limited class of work for which the licensee is licensed.

**Subd. 5. Unlicensed persons.** (a) An unlicensed person shall not perform electrical work unless the work is performed under the personal supervision of an electrician actually licensed to perform such work and the licensed electrician and unlicensed person are employed by the same employer. Licensed electricians shall not permit unlicensed persons to perform electrical work except under the personal supervision of an electrician actually licensed to perform such work. Unlicensed persons shall not supervise the performance of electrical work or make assignments of electrical work to unlicensed persons. Licensed electricians shall supervise no more than two unlicensed persons.

(b) Notwithstanding any other provision of this section, no person other than a master electrician shall plan or lay out electrical wiring, apparatus, or equipment for light, heat, power, or other purposes.

(c) Electrical contractors employing unlicensed persons performing electrical work shall maintain records establishing compliance with this subdivision, which shall designate all unlicensed persons performing electrical work and shall permit the board to examine and copy all such records as provided for in section 326.244, subdivision 6.

**Subd. 6. Electrical contractor's license required.** Except as otherwise provided by law, no person other than an employee, partner, or officer of a licensed electrical contractor, as defined by section 326.01, subdivision 5, shall undertake or offer to undertake to plan for, lay out, supervise or install or to make additions, alterations, or repairs in the installation of electrical wiring, apparatus, and equipment for light, heat, power, and other purposes with or without compensation unless the person obtains an electrical contractor's license. An electrical contractor's license does not of itself qualify its holder to perform or supervise the electrical work authorized by holding any class of electrician's license.

**Subd. 6a. Bond required.** Each electrical contractor shall give and maintain bond to the state in the penal sum of \$5,000 conditioned upon the faithful and lawful performance of all work entered upon by the contractor within the state of Minnesota and such bond shall be for the benefit of persons injured or suffering financial loss by reason of failure of such performance. The bond shall be filed with the board and shall be in lieu of all other license bonds to any political subdivision. Such bond shall be written by a corporate surety licensed to do business in the state of Minnesota.

**Subd. 6b. Insurance required.** Each electrical contractor shall have and maintain in effect general liability insurance, which includes premises and operations insurance and products and completed operations insurance, with limits of at least \$100,000 per occurrence, \$300,000 aggregate limit for bodily injury, and property damage insurance with limits of at least \$25,000 or a policy with a single limit for bodily injury and property damage of \$300,000 per occurrence and \$300,000 aggregate limits. Such insurance shall be written by an insurer licensed to do business in the state of Minnesota and each electrical contractor shall maintain on file with the board a certificate evidencing such insurance which provides that such insurance shall not be canceled without the insurer first giving 15 days written notice to the board of such cancellation.

**Subd. 6c. Employment of master electrician.** (a) No electrical contractor shall engage in business of electrical contracting unless the electrical contractor employs a licensed Class A master or Class B master electrician, who shall be responsible for the performance of all electrical work in accordance with the requirements of sections 326.241 to 326.248 or any rule or order adopted or issued under these sections. The classes of work for which the licensed electrical contractor is authorized shall be limited to those for which such Class A master, or Class B master employed by the electrical contractor is licensed.

(b) When an electrical contractor's license is held by an individual, partnership, or corporation and the individual, one of the partners, or an officer of the corporation, respectively, is not the responsible master electrician of record, all requests for inspection shall be signed by the responsible master electrician of record. The designated responsible master electrician of record shall be employed by the individual, partnership, or corporation which is applying for an electrical contractor's license and shall not be employed in any capacity as a licensed electrician by any other electrical contractor or employer designated in subdivision 12.

(c) All applications for electrical contractor's licenses and all renewals shall include a verified statement that the applicant or licensee has complied with this subdivision.

*[For text of subs 7 and 8, see M.S.1990]*

**Subd. 9. Denial, suspension, and revocation of licenses.** The board may by order deny, suspend, revoke, or refuse to renew a license, or may censure a licensee if the board finds (1) in its discretion that the order is in the public interest and (2) that, based upon a preponderance of the evidence presented, the applicant or licensee:

(a) has filed an application for a license which is incomplete in any material respect or contains any statement which, in light of the circumstances under which it is made, is false or misleading with respect to any material fact;

(b) has engaged in any fraudulent, deceptive, or dishonest act or practice;

(c) has been convicted within the past five years of a misdemeanor involving a violation of sections 326.241 to 326.248;

(d) has violated or failed to comply with sections 326.241 to 326.248 or any rule or order adopted or issued under these sections; or

(e) has, in the conduct of the applicant's or licensee's affairs, including, but not limited to, the performance of electrical work, been shown to be incompetent or untrustworthy.

If a licensee engages in conduct that is proven by a preponderance of the evidence to be a basis for discipline pursuant to paragraphs (a) to (e), the conduct shall constitute

a violation of this subdivision. The board may take action under this subdivision or any other law authorizing action against a licensee regardless of whether the underlying conduct was willful.

The board may adopt rules further specifying and defining actions, conduct, and omissions that constitute fraudulent, deceptive, dishonest, or prohibited practices, and establishing standards of conduct for applicants and licensees.

**Subd. 9a. Civil penalties.** Whenever a preponderance of the evidence presented proves that a person has violated or failed to comply with sections 326.241 to 326.248 or any rule or order adopted or issued under these sections, the board may impose a civil penalty upon the person in an amount not to exceed \$10,000 per violation.

**Subd. 9b. Orders for hearing.** The complaint committee may, on behalf of the board, issue an order requiring a licensee or an applicant for a license to appear at a hearing on the issue of whether the license should be revoked or suspended, the licensee censured, the application denied, or a civil penalty imposed. The order shall be calculated to give reasonable notice of the time and place for hearing, and shall state the reasons for the entry of the order. All hearings shall be conducted in accordance with chapter 14. After the hearing, the board shall enter an order making a disposition of the matter as the facts require. If the licensee or applicant fails to appear at a hearing of which that person has been duly notified, the person is in default and the proceeding may be determined against that person upon consideration of the order for hearing, the allegations of which may be deemed to be true.

**Subd. 9c. Temporary suspension.** (a) The complaint committee may, on behalf of the board and in the public interest, temporarily suspend a license pending final determination of an order for hearing. The complaint committee shall not issue a temporary suspension order until an investigation of the facts has been conducted pursuant to section 214.10 by the attorney general. The complaint committee shall issue a temporary suspension order only when the safety of life or property is threatened or to prevent the commission of fraudulent, deceptive, or dishonest acts against the public. Service of the temporary suspension order is effective if the order is served on the licensee or counsel of record personally or by first class mail to the most recent address provided to the board for the licensee or the counsel of record.

(b) If a license is suspended pending final determination of an order for hearing, a hearing on the merits shall be held within 45 days of the issuance of the order of temporary suspension. The administrative law judge shall issue a report within 30 days after closing of the contested case hearing record. The board shall issue a final order within 30 days after receipt of that report and any exceptions.

(c) If the licensee requests a hearing in writing within ten days of service of the order, the board shall hold a hearing before its own members on the sole issue of whether there is a reasonable basis to continue, modify, or vacate the temporary suspension. The board shall hold the hearing within five working days of the licensee's request for hearing. Evidence presented by the complaint committee or licensee shall be in affidavit form only. The licensee or counsel of record for the licensee may appear for oral argument. Within five working days after the hearing, the board shall issue its order either continuing or vacating the temporary suspension.

**Subd. 9d. Cease and desist order.** (a) Whenever it appears to the complaint committee that any person has engaged or is about to engage in any act or practice constituting a violation of sections 326.241 to 326.248, any other law authorizing the issuance of a cease and desist order, or any rule or order adopted or issued under these sections, the complaint committee may, on behalf of the board, issue and cause to be served upon the person an order requiring the person to cease and desist from violating sections 326.241 to 326.248 or any rule or order adopted or issued under these sections. The complaint committee shall not issue a cease and desist order until an investigation of the facts has been conducted pursuant to section 214.10 by the attorney general. The order shall be calculated to give reasonable notice of the right of the person to request a hearing and shall state the reasons for the entry of the order. If no hearing is requested of the board within 15 days of service of the order, the order shall become final and

shall remain in effect until it is modified or vacated by the board and shall not be reviewable by a court.

(b) A hearing shall be held not later than 30 days from the date of the board's receipt of a written hearing request, unless otherwise agreed by the person requesting the hearing and the complaint committee. Within 30 days of receipt of the administrative law judge's report and any exceptions, the board shall issue a final order modifying, vacating, or making permanent the cease and desist order as the facts require. The final order remains in effect until modified or vacated by the board.

**Subd. 9e. Costs of proceeding.** The board may impose a fee to reimburse the board for all or part of the cost of the proceedings resulting in disciplinary action or the imposition of civil penalties or the issuance of a cease and desist order. Such fees include, but are not limited to, the amount paid by the board for services from the office of administrative hearings, attorney fees, court reporters, witnesses, reproduction of records, board members' per diem compensation, board staff time, and expense incurred by board members and staff.

**Subd. 9f. District court action; injunctive relief and civil penalties.** (a) Whenever it appears to the board, or the complaint committee if authorized by the board, that any person has engaged or is about to engage in any act or practice constituting a violation of sections 326.241 to 326.248 or any rule or order adopted or issued under these sections, the board, or the complaint committee if authorized by the board, may bring an action in the name of the board in the Ramsey county district court or the district court of any other county in which venue is proper.

(b) The action may be brought to enjoin the acts or practices and to enforce compliance with sections 326.241 to 326.248, any other law authorizing a civil or injunctive action, or any rule or order adopted or issued under these sections and for a civil penalty not to exceed \$10,000 for each separate violation of sections 326.241 to 326.248, any other law authorizing a civil or injunctive action, or any rule or order adopted or issued under these sections.

(c) A temporary restraining order and other temporary injunctive relief shall be granted in the proceeding whenever it appears that any person has engaged in or is about to engage in any act, conduct, or practice constituting violation of sections 326.241 to 326.248, any other law authorizing a civil or injunctive action, or any rule or order adopted or issued under these sections. The board shall not be required to show irreparable harm.

**Subd. 9g. Other remedies.** The issuance of a cease and desist order or injunctive relief under this section does not relieve a person from criminal prosecution by any competent authority or from disciplinary action by the board and does not prevent the board from exercising any other authority granted to it.

**Subd. 9h. Powers additional.** The powers contained in subdivisions 9 to 9g are in addition to all other powers of the board.

**Subd. 9i. Cooperation required.** A person who is the subject of an investigation, or who is questioned in connection with an investigation, by or on behalf of the board or its complaint committee shall cooperate fully with the investigation. Cooperation includes, but is not limited to:

(1) responding fully and promptly to questions raised by or on behalf of the board or its complaint committee relating to the subject of the investigation;

(2) providing copies of records in the person's possession related to the matter under investigation as requested by the board, its complaint committee, or the attorney general within the time limit set by the board, its complaint committee, or the attorney general;

(3) assisting the board, its complaint committee, or the attorney general in its investigation; and

(4) appearing at conferences or hearings scheduled by the board or its complaint committee.

**Subd. 9j. Disciplinary proceedings closed.** Proceedings held before the board or its

complaint committee under chapter 214 or subdivisions 9 to 9d are exempt from the requirements of section 471.705, subdivision 1.

Subd. 9k. **Conflicts of law.** If there is a conflict between sections 326.241 to 326.248 and chapter 214, sections 326.241 to 326.248 shall control.

*[For text of subds 10 and 11, see M.S.1990]*

Subd. 12. **Exemptions from licensing.** (a) A maintenance electrician who is supervised by the responsible master electrician for an electrical contractor who has contracted with the maintenance electrician's employer to provide services for which an electrical contractor's license is required or by a master electrician or an electrical engineer registered with the board and who is an employee of an employer and is engaged in the maintenance, and repair of electrical equipment, apparatus, and facilities owned or leased by the employer, and performed within the limits of property which is owned or leased and operated and maintained by said employer, shall not be required to hold or obtain a license under sections 326.241 to 326.248; or

(b) Employees of a licensed alarm and communication contractor are not required to hold a license under sections 326.241 to 326.248 while performing work authorized to be conducted by an alarm and communication contractor; or

(c) Employees of any electric, communications, or railway utility, or a telephone company as defined under section 237.01 or its employees, or of any independent contractor performing work on behalf of any such utility or telephone company, shall not be required to hold a license under sections 326.241 to 326.248:

1. While performing work on installations, materials, or equipment which are owned or leased, and operated and maintained by such utility or telephone company in the exercise of its utility or telephone function, and which

(i) are used exclusively for the generation, transformation, distribution, transmission, or metering of electric current, or the operation of railway signals, or the transmission of intelligence and do not have as a principal function the consumption or use of electric current by or for the benefit of any person other than such utility or telephone company, and

(ii) are generally accessible only to employees of such utility or telephone company or persons acting under its control or direction, and

(iii) are not on the load side of the meter; or

2. While performing work on installations, materials, or equipment which are a part of the street lighting operations of such utility; or

3. While installing or performing work on outdoor area lights which are directly connected to a utility's distribution system and located upon the utility's distribution poles, and which are generally accessible only to employees of such utility or persons acting under its control or direction; or

(d) An owner shall not be required to hold or obtain a license under sections 326.241 to 326.248.

**History:** 1991 c 289 s 11-29

### 326.244 INSPECTION.

*[For text of subds 1 to 3, see M.S.1990]*

Subd. 4. **Powers of political subdivisions.** Any political subdivision or the University of Minnesota may make provision for inspection of electrical installations within its jurisdiction, in which case it shall keep on file with the board copies of its current inspection ordinances and codes. No political subdivision or the University of Minnesota shall require any individual, partnership, corporation or other business association holding a license from the board under sections 326.241 to 326.248 to pay any license or registration fee, provided however, that any such political subdivision or the University of Minnesota may provide by ordinance a requirement that each individual, part-

nership, corporation or other business association doing electrical work within the jurisdiction of such political subdivision or the University of Minnesota have on file with said political subdivision a copy of the current license issued by the board or such other evidence of such license as may be provided by the board.

Each electrical inspector of any political subdivision or the University of Minnesota shall be a licensed master or journeyman electrician under section 326.242, subdivision 1, paragraph (1), or 2, paragraph (b), and shall not otherwise engage or be employed in the sale, installing, altering, or repairing of electrical wiring, apparatus, or equipment for light, heat, power, and other purposes and shall have no financial interest in any concern engaged in any such business.

**Subd. 5. Exemptions from inspections.** Installations, materials, or equipment shall not be subject to inspection under sections 326.241 to 326.248:

1. When owned or leased, operated and maintained by any employer whose maintenance electricians are exempt from licensing under sections 326.241 to 326.248, while performing electrical maintenance work only as defined by board rule; or

2. When owned or leased, and operated and maintained by any electric, communications or railway utility or telephone company in the exercise of its utility or telephone function; and

(i) are used exclusively for the generations, transformation, distribution, transmission, or metering of electric current, or the operation of railway signals, or the transmission of intelligence, and do not have as a principal function the consumption or use of electric current by or for the benefit of any person other than such utility or telephone company; and

(ii) are generally accessible only to employees of such utility or telephone company or persons acting under its control or direction; and

(iii) are not on the load side of the meter; or

3. When used in the street lighting operations of an electric utility; or

4. When used as outdoor area lights which are owned and operated by an electric utility and which are connected directly to its distribution system and located upon the utility's distribution poles, and which are generally accessible only to employees of such utility or persons acting under its control or direction; or

5. When the installation, material, and equipment are alarm or communication systems laid out, installed, or maintained within residential units not larger than a duplex; or

6. When the installation, material, and equipment are in facilities subject to the jurisdiction of the federal Mine Safety and Health Act.

**Subd. 6. Site inspections.** The board may, without advance notice, inspect any site at which electrical work is being performed or has been performed or where records concerning the performance of electrical work are kept for purposes of ensuring compliance with sections 326.241 to 326.248 or any rule or order adopted or issued under these sections. With respect to electrical work performed at or records kept in an occupied private dwelling, all inspections permitted by this subdivision shall occur during normal business hours and shall be preceded by advance notice, which need not be in writing. The board shall have the authority to examine and copy all records concerning the performance of electrical work and to question in private all persons employed by an electrical contractor or on the site. No person shall retaliate in any manner against any employee or person who is questioned by, cooperates with, or provides information to the board, its complaint committee, or the attorney general.

**History:** 1991 c 289 s 30-32

### **326.245 MANUFACTURING, INSTALLATION, ALTERATION, OR REPAIR OF ELECTRICAL APPARATUS; EXEMPT.**

Electrical components, apparatus or appliances being manufactured within the limits of property which is owned or leased by a manufacturer and such manufacturer's

production employees shall not be covered by sections 326.241 to 326.248. Installation, alteration, or repair of electrical appliance units, except (a) electrical wiring to the unit, or (b) original wiring in or on the unit installed outside the limits of property which is owned or leased by a manufacturer shall not be covered by this chapter. For purposes of this section, "electrical appliance units" means all electrical and natural gas appliances that use electricity including, but not limited to, furnaces, water heaters, stoves, clothes washers, dryers, air conditioners, dishwashers, and humidifiers.

**History:** 1991 c 289 s 33

### 326.246 CRIMES.

It is a misdemeanor knowingly and willfully to commit, or to order, instruct, or direct another to commit, any of the following acts:

(1) to make a false statement in any license application, request for inspection, certificate or other lawfully authorized or required form or statement provided by sections 326.241 to 326.248;

(2) to perform electrical work without a proper license for such work unless the work is exempt from licensing;

(3) to fail to file a request for inspection when required;

(4) to interfere with or refuse entry to an inspector lawfully engaged in the performance of the inspector's duties; and

(5) to violate any lawful statute, rule, or order of the board, or any city ordinance which pertains to powers given to political subdivisions under section 326.244, subdivision 4.

**History:** 1991 c 289 s 34

## RESIDENTIAL CONTRACTORS

### 326.83 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to sections 326.83 to 326.98.

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of commerce.

Subd. 3. **Council.** "Council" means the builders state advisory council.

Subd. 4. **Licensee.** "Licensee" means a residential building contractor, remodeler, or specialty contractor licensed under sections 326.83 to 326.98.

Subd. 5. **Mechanical contractor.** "Mechanical contractor" means a person, sole proprietor, partnership, joint venture, corporation, or other organization which is in the business of erection, installation, alteration, repair, relocation, replacement, addition to, use, or maintenance of any heating, ventilating, cooling, process piping, plumbing, fire protection, or refrigeration systems, incinerators, or other miscellaneous heat-producing appliance, piping, or equipment or appliances associated with those systems.

Subd. 6. **Public member.** "Public member" means a person who is not, and never was, a residential builder, remodeler, or specialty contractor or the spouse of such person, or a person who has no, or never has had a, material financial interest in acting as a residential building contractor, remodeler, or specialty contractor or a directly related activity.

Subd. 7. **Remodeler.** "Remodeler" means a person in the business of contracting or offering to contract to improve existing residential real estate. A remodeler has two or more special skills.

Subd. 8. **Residential building contractor.** "Residential building contractor" means a person in the business of building residential real estate or of contracting or offering to contract to improve residential real estate.

Subd. 9. **Residential real estate.** "Residential real estate" means a new or existing building constructed for habitation by one to four families, and includes detached garages.

Subd. 10. **Specialty contractor.** "Specialty contractor" means a person other than a residential building contractor, remodeler, or material supplier in the business of contracting or offering to contract to make part of an improvement to residential real estate, including roofing.

**History:** 1991 c 306 s 7

### 326.84 LICENSING REQUIREMENTS.

Subdivision 1. **Persons required to be licensed.** Except as provided in subdivision 3, no person may engage in the work of a residential building contractor, remodeler, or specialty contractor for compensation without a valid license issued by the commissioner. The commissioner shall recommend which types of one-skill competency or single special skill groups must be licensed as specialty contractors and report to the legislature by January 31, 1992, with the recommended types of specialty groups, the licensing procedures, and potential continuing education requirements.

Subd. 2. **Persons considered licensed.** Residential building contractors, remodelers, and specialty contractors are considered licensed if the following requirements are met:

(1) for a sole proprietorship, the proprietor is licensed;

(2) for a partnership, a general partner is licensed; and

(3) for a corporation, a chief executive officer, responsible managing employee, or qualifying person in Minnesota designated by the corporation is licensed. "Responsible managing employee" or "qualifying person" means an employee who is regularly employed by the corporation and is actively engaged in the classification of work for which the responsible managing employee qualifies on behalf of the corporation. A person may act in the capacity of the qualifying party for one additional corporation if one of the following conditions exist:

(i) there is a common ownership of at least 25 percent of each licensed corporation for which the person acts in a qualifying capacity; or

(ii) one corporation is a subsidiary of another corporation for which the same person acts in a qualifying capacity. "Subsidiary," as used in this section, means a corporation of which at least 25 percent is owned by the parent corporation.

Subd. 3. **Exceptions.** The license requirement does not apply to:

(1) an employee of a licensee performing work for the licensee;

(2) a material person, manufacturer, or retailer furnishing finished products, materials, or articles of merchandise who does not install or attach the items;

(3) an owner or owners of residential real estate who improve the residential real estate or who build or improve a structure on the residential real estate and who do the work themselves or jointly with the owner's own employees or agents;

(4) an architect or engineer engaging in professional practice as defined in this chapter;

(5) a person engaging in any project by one or more contracts, for which the aggregate contract price, including labor, materials, installation, and all other items, is less than \$2,500. The \$2,500 limit may be exceeded by the unlicensed person if the person's total gross annual receipts from projects regulated under this section do not exceed \$15,000;

(6) a mechanical contractor, plumber, or electrician;

(7) a person doing excavation for the installation of an on-site sewage treatment system;

(8) all specialty contractors that were required to be licensed by the state before the effective date of Laws 1991, chapter 306, sections 7 to 22; and

(9) specialty contractors that are not required to be licensed, as determined by the legislature.

**History:** 1991 c 306 s 8

**326.85 ADVISORY COUNCIL.**

Subdivision 1. **Builders state advisory council.** The commissioner shall appoint seven persons to the builders state advisory council. At least three members of the council must reside in greater Minnesota, as defined in section 116O.02, subdivision 5. At least one member of the council must be a residential building contractor, one a remodeler, one a specialty contractor, one a representative of the commissioner, one a local building official, and one a public member.

Subd. 2. **Membership terms.** The membership terms, compensation, removal, and filling of vacancies of the council are as provided in section 15.059.

Subd. 3. **Duties.** The council shall advise the commissioner on matters related to sections 326.83 to 326.98.

**History:** 1991 c 306 s 9

**326.86 FEES.**

Subdivision 1. **Licensing fee.** The licensing fee for residential building contractors and remodelers is \$60 for the license period ending March 31, 1993, and \$75 for each year thereafter. The commissioner may adjust the fees under section 16A.128 to recover the costs of administration and enforcement. The commissioner shall establish licensing fees for specialty contractors under section 16A.128. The fees must be limited to the cost of license administration and enforcement and must be deposited in the state treasury and credited to the general fund.

Subd. 2. **Local surcharge.** A local government unit may place a surcharge in an amount no greater than \$5 on each building permit that requires a licensed residential building contractor, remodeler, or specialty contractor for the purpose of license verification. The local government may verify a license by telephone or facsimile machine.

**History:** 1991 c 306 s 10

**326.87 CONTINUING EDUCATION.**

Subdivision 1. **Standards.** The commissioner, in consultation with the council, may adopt standards for continuing education requirements and course approval. Except for the course content, the standards must be consistent with the standards established for real estate agents and other professions licensed by the department of commerce.

Subd. 2. **Hours.** A licensee of a general residential contractor or remodeler must provide proof of completion of 15 hours for each two-year license period. Continuing real estate hours and continuing general residential contractor or remodeler hours must be granted for the same course if it meets the guidelines for an approved course in each license program.

Subd. 3. **Accessibility.** To the extent possible, the commissioner shall ensure that continuing education courses are offered throughout the state and are easily accessible to all licensees.

**History:** 1991 c 306 s 11

**326.88 TEMPORARY LICENSES.**

A temporary license must be issued to residential building contractors, remodelers, or specialty contractors if the person who obtained a license under section 326.84, subdivision 2, clause (2) or (3), leaves the partnership or corporation because of death, disability, retirement, or position change. A temporary license expires after one year and may not be renewed.

**History:** 1991 c 306 s 12

**326.89 APPLICATION AND EXAMINATION.**

Subdivision 1. **Form.** An applicant for a license under sections 326.83 to 326.98 must submit an application to the commissioner, under oath, on a form prescribed by

the commissioner. Within 30 business days of receiving all required information, the commissioner must act on the license request. If one of the categories in the application does not apply, the applicant must state the reason. The commissioner may refuse to issue a license if the application is not complete or contains unsatisfactory information.

**Subd. 2. Contents.** The application must include the following information regarding the applicant:

- (1) Minnesota workers' compensation insurance account number;
- (2) employment insurance account number;
- (3) type of license requested;

(4) name and address of the applicant if the applicant is a sole proprietorship; name and address of each partner if the applicant is a partnership; or name and address of each of the corporate officers, directors, and all shareholders holding more than five percent of the outstanding stock in the corporation;

(5) whether the applicant has ever been licensed in any other state and has had a professional or vocational license refused, suspended, or revoked;

(6) whether the applicant or any of its corporate or partnership directors, officers, limited or general partners, managers, or all shareholders holding more than five percent of the outstanding stock of the corporation has been convicted of a crime that either related directly to the business for which the license is sought or involved fraud, misrepresentation, or misuse of funds; has suffered a judgment in a civil action involving fraud, misrepresentation, negligence, or breach of contract, or conversion within the ten years prior to the submission of the application; or has had any government license or permit suspended or revoked as a result of an action brought by a federal, state, or local governmental unit or agency in this or any other state;

(7) the applicant's education and experience as they relate to the requested type of license; and

(8) the applicant's business history for the past five years and whether the applicant has ever filed for bankruptcy or protection from creditors or has any unsatisfied judgments against the applicant.

The commissioner may require further information as the commissioner deems appropriate to administer the provisions and further the purposes of this chapter.

**Subd. 3. Examination.** All individual applicants must satisfactorily complete a written examination for the type of license requested. The commissioner may establish the examination qualifications, including related education experience and education, the examination procedure, and the examination for each licensing group. The examination must include at a minimum the following areas:

(1) appropriate knowledge of technical terms commonly used and the knowledge of reference materials and code books to be used for technical information; and

(2) understanding of the general principles of business management and other pertinent state laws.

Each examination must be designed for the specified type of license requested. The council shall advise the commissioner on the grading, monitoring, and updating of examinations.

**Subd. 4. Competency skills.** The commissioner shall, in consultation with the council, determine the competency skills and installation knowledge required for the licensing of specialty contractors.

**Subd. 5. Exemption.** A general retailer whose primary business is not being a residential building contractor, remodeler, or specialty contractor and who has completed a comparable license examination in another state is exempt from subdivisions 3 and 4 and sections 326.87 and 326.88.

**History:** 1991 c 306 s 13

### **326.90 LOCAL LICENSE PROHIBITED.**

Except as provided in section 326.991, a political subdivision may not require a

residential building contractor, remodeler, or specialty contractor to also be licensed under any ordinance, law, rule, or regulation of the political subdivision. This section does not prohibit charges for building permits or other charges not directly related to licensure.

**History:** 1991 c 306 s 14

### 326.91 DENIAL, SUSPENSION, OR REVOCATION OF LICENSES.

Subdivision 1. **Cause.** The commissioner may by order deny, suspend, or revoke any license or may censure a licensee if the commissioner finds that the order is in the public interest, and that the applicant or licensee:

(1) has filed an application for a license which is incomplete in any material respect or contains any statement which, in light of the circumstances under which it is made, is false or misleading with respect to any material fact;

(2) has engaged in a fraudulent, deceptive, or dishonest practice;

(3) is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the business;

(4) has failed to reasonably supervise employees, agents, subcontractors, or salespersons, or has performed negligently or in breach of contract, so as to cause injury or harm to the public;

(5) has violated or failed to comply with any provision of sections 326.83 to 326.98 or any rule or order under sections 326.83 to 326.98;

(6) has been shown to be incompetent, untrustworthy, or financially irresponsible;

(7) has been convicted of a violation of the state building code;

(8) has failed to use the proceeds of any payment made to the licensee for the construction of, or any improvement to, residential real estate, as defined in section 326.83, subdivision 9, for the payment of labor, skill, material, and machinery contributed to the construction or improvement, knowing that the cost of any labor performed, or skill, material, or machinery furnished for the improvement remains unpaid; or

(9) has not furnished to the person making payment either a valid lien waiver as to any unpaid labor performed, or skill, material, or machinery furnished for an improvement, or a payment bond in the basic amount of the contract price for the improvement conditioned for the prompt payment to any person or persons entitled to payment.

Subd. 2. **Administrative action.** Section 45.027 applies to any action taken by the commissioner in connection with the administration of sections 326.83 to 326.98.

**History:** 1991 c 306 s 15

### 326.92 PENALTIES.

Subdivision 1. **Misdemeanor.** A person required to be licensed under sections 326.83 to 326.98 who performs unlicensed work as a residential building contractor, remodeler, or specialty contractor is guilty of a misdemeanor.

Subd. 2. **Lien rights.** An unlicensed person who knowingly violates sections 326.83 to 326.98 has no right to claim a lien under section 514.01 and the lien is void. Nothing in this section affects the lien rights of material suppliers and licensed contractors to the extent provided by law.

Subd. 3. **Commissioner action.** The commissioner may bring actions, including cease and desist actions, against an unlicensed or licensed residential building contractor, remodeler, or specialty contractor to protect the public health, safety, and welfare.

**History:** 1991 c 306 s 16

### 326.93 SERVICE OF PROCESS; NONRESIDENT LICENSING.

Subdivision 1. **License.** A nonresident of Minnesota may be licensed as a residen-

tial building contractor, remodeler, or specialty contractor upon compliance with all the provisions of sections 326.83 to 326.98.

Subd. 2. **Service of process.** Service of process upon a person performing work in the state of a type that would require a license under sections 326.83 to 326.98 may be made as provided in section 45.028.

**History:** 1991 c 306 s 17

### **326.94 BOND; INSURANCE.**

Subdivision 1. **Bond.** (a) Residential building contractors, remodelers, and specialty contractors licensed under section 326.84 must post a license bond with the commissioner, conditioned that the applicant shall faithfully perform the duties and in all things comply with all laws, ordinances, and rules pertaining to the license or permit applied for and all contracts entered into. The annual bond must be continuous and maintained for so long as the licensee remains licensed. The aggregate liability of the surety on the bond to any and all persons, regardless of the number of claims made against the bond, may not exceed the amount of the bond. The bond may be canceled as to future liability by the surety upon 30 days written notice mailed to the commissioner by regular mail.

(b) The commissioner shall establish by rule a bond scale based on the gross annual receipts of the licensee. The residential building contractor and remodeler licensees must post a bond of at least \$5,000. A specialty contractor licensee must post a bond of at least \$2,500. The bond amounts for specialty contractor licensees must be based upon the same classifications as a residential building contractor and remodeler licensee.

Subd. 2. **Insurance.** Residential building contractors, remodelers, and specialty contractors must have public liability insurance with limits of at least \$100,000 per occurrence and \$10,000 property damage insurance. The commissioner may increase the minimum amount of insurance required based on the type of license and the annual gross receipts of the licensee.

**History:** 1991 c 306 s 18

### **326.95 LICENSE NUMBER; ADVERTISING.**

Subdivision 1. **License number must be displayed.** The license number of a licensee must be placed on all building permits and building permit applications made to or issued by the state or a political subdivision. In jurisdictions that have not adopted the state building code, the license number must be placed on the site plan review or zoning permit. License numbers must be on all business cards and all contracts to perform work for which a license is required.

Subd. 2. **Advertising.** The license number of a licensee must appear in any display advertising by that licensee.

Subd. 3. **Contracts.** Contracts entered into by a licensee must state that the person is licensed and must state the license number.

Subd. 4. **Notices.** License numbers must appear on each notice under section 514.011, and each statement under section 514.08.

**History:** 1991 c 306 s 19

### **326.96 PUBLIC EDUCATION.**

The commissioner may develop materials and programs to educate the public concerning licensing requirements and methods for reporting unlicensed contracting activity.

**History:** 1991 c 306 s 20

### **326.97 LICENSE RENEWAL.**

Subdivision 1. **Approval.** Licensees whose applications have been properly and

timely filed and who have not received notice of denial of renewal are considered to have been approved for renewal and may continue to transact business whether or not the renewed license has been received. Application for renewal of a license is required every two years after the initial issuance. Applications are timely if received or post-marked by December 15 of the year prior to the renewal year. Applications must be made on a form approved by the commissioner.

**Subd. 2. Failure to apply.** A person who has failed to make a timely application for renewal of a license by March 31 of the renewal year is unlicensed until the license has been issued by the commissioner and is received by the applicant.

**Subd. 3. Reexamination not required.** An examination is not required for the renewal of a license, except that a licensee who has failed to renew a license for two years must retake the examination. The commissioner may stagger the dates of license renewal.

**History:** 1991 c 306 s 21

### **326.98 RULES.**

The commissioner may adopt rules to administer and enforce sections 326.83 to 326.98.

**History:** 1991 c 306 s 22

### **326.99 INITIAL TEMPORARY LICENSES.**

Residential building contractors and remodelers must obtain a temporary license, which is effective as of January 1, 1992. The commissioner may stagger the temporary licenses so that approximately one-half of the licenses will expire on March 31, 1993, and the other one-half on March 31, 1994.

**History:** 1991 c 306 s 23

### **326.991 EXEMPTION.**

The license requirement under section 326.84 does not apply to a residential building contractor, remodeler, or specialty contractor licensed by the city of St. Paul or the city of Minneapolis and who is performing work within the legal boundaries of one of those municipalities. The two cities shall adopt and administer the tests for the residential building contractors and remodelers established in section 326.89 within six months of the effective date of the rules establishing the examinations. The commissioner may by rule establish a procedure for the city of Minneapolis and the city of St. Paul to administer this licensing program on a contract basis.

**History:** 1991 c 306 s 24

**NOTE:** This section, as added by Laws 1991, chapter 306, section 24, is repealed March 31, 1993. See Laws 1991, chapter 306, section 26.