



**WEST VIRGINIA SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

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Office of West Virginia  
Secretary Of State

## **NOTICE OF RULE MODIFICATION OF A PROPOSED RULE**

AGENCY: Fire Marshal

RULE TYPE: Legislative

TITLE-SERIES: 103-05

RULE NAME: Electrician Licensing Rules

CITE AUTHORITY: W. Va. Code 29-3B-5

The above proposed Legislative rules, following review by the Legislative Rule Making Review Committee, is hereby modified as a result of review and comment by the Legislative Rule Making Review Committee. The attached modifications are filed with the Secretary of State.

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.**

**Yes**

**Brandolyn N Felton-Ernest -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.**

TITLE 103  
LEGISLATIVE RULE  
STATE FIRE MARSHAL

SERIES 5  
ELECTRICIAN LICENSING RULES

**§103-5-1. General.**

1.1. Scope. -- These rules establish the procedures to be followed to protect the health, safety and welfare of the public as well as public and private property by assuring the competence of those who perform electrical work through licensure by the State Fire Marshal of the State Fire Commission.

1.2. Authority. -- W. Va. Code §29-3B-5.

1.3. Filing Date. -- ~~April 27, 2023.~~

1.4. Effective Date. -- ~~May 1, 2023.~~

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect on August 1, 2028~~9~~.

1.6. Subject. -- Standards and Procedures relating to the Issuance of Certificates of Competency to Master, Journeyman, or and Specialty Electricians.

**§103-5-2. Definitions.**

2.1. "Master Electrician" - means a person with at least ~~two~~ (2) years of electrical work experience, including experience in all phases of electrical wiring and installation, who holds a master electrician's license issued by the West Virginia State Fire Marshal who is competent to instruct and supervise the electrical work of Journeyman and Assistant/Helper Electricians. A master electrician shall have a comprehensive knowledge and understanding of the National Electrical Code, and the ability to read electrical plans, drawings and designs to calculate demand loads in compliance with the National Electrical Code.

2.2. "Journeyman Electrician" - means a person qualified by at least ~~one~~ (1) years of electrical work experience to do any work installing wires, conduits, apparatus, equipment, fixtures, and other appliances subject to supervision by a master electrician, and who holds a journeyman electrician's license issued by the West Virginia State Fire Marshal. A journeyman electrician shall have a knowledge and understanding of the National Electric Code as it pertains to the installation of wires, conduits, apparatus, equipment, fixtures and other appliances. A journeyman electrician shall not design any part of an electrical system.

2.3. "Electrician's Assistant/Helper" - means a person who is directly assisting a Journeyman or Master Electrician in performing supervised electrical work. Electrician Assistants/Helpers are not permitted to perform any electrical work unsupervised or in hazardous areas as defined in the National Electric Code (NFPA 70).

2.3.1. "Assisting or Helping" - is defined as a person who is working with, is in direct contact with, and is under the direct supervision of a Licensed Electrician.

2.4. "Specialty Electrician License" - means a person qualified to perform electrical work in a limited or specialized area. The following specialty electrician licenses may be issued by the State Fire Marshal.

2.4.1. A specialty plumbing, heating, and air conditioning electrician license (SP-PH) authorizes the licensee to install, maintain, or repair electric wiring or devices only as an incident to the licensee's plumbing, heating, and air conditioning business. Furthermore, the license authorizes the licensee to install, maintain, or repair only wiring that is directly related to plumbing, heating, and air conditioning equipment and that:

2.4.1.a. is restricted to circuits or parts of circuits that operate at voltages not exceeding 600 volts, phase-to-phase;

2.4.1.b. is electrically isolated from the building wiring system by an overcurrent protective isolating device, such as a fused switch or circuit breaker, that:

2.4.1.b.1. has been installed, complete with line-side connections, by a master or journeyman electrician;

2.4.1.b.2. is permanently and legibly marked to identify the equipment served by the device; and

2.4.1.b.3. is located within an enclosure intended solely for, and limited to, serving the specific plumbing, heating, and air conditioning equipment involved, or is located within a panel-board that serves the building wiring system and is likewise permanently and legibly marked to identify the equipment served by the device, provided the wiring is installed by a master or journeyman electrician from the load-side terminals of the device to a junction box, auxiliary gutter, or similar disconnecting means located outside the panelboard, but in sight of and within 50 feet of, the plumbing, heating, or air conditioning equipment served;

2.4.1.c. originates at the load-side terminals of the protective isolating device;

2.4.1.d. except for control wiring, is physically adjacent to the plumbing, heating, and air conditioning equipment involved and is in sight of and not more than 50 feet from the equipment. Control wiring that receives its control power from the plumbing, heating, and air conditioning equipment involved may extend beyond these limits if the control voltage does not exceed 120 volts to ground and the wiring is protected from overcurrent; and

2.4.1.e. is not installed in a location considered as hazardous under the National Electrical Code.

2.4.2. A specialty electric sign electrician license (SP-ES) authorizes the licensee to install, maintain, or repair electric wiring or devices only as an incident to the licensee's electric sign business. Furthermore, the license authorizes the licensee to install, maintain, or repair only wiring that is directly related to electric signs and is electrically isolated from the building wiring system. Wiring that is directly related differs depending on the type of sign involved.

2.4.2.a. Except for electric signs described in subdivisions B, C, and D of this Section, related wiring is the portion of the electric sign wiring that originates at the load-side terminals of a disconnecting means located immediately adjacent to the electric sign involved, or originates within a junction box so located. Related wiring does not include the installation of the disconnecting means, complete with line-side connections, or the installation of the junction box, complete with free-length circuit conductors to accommodate the connection of the related wiring in the box.

2.4.2.b. For electric sign installations having sign transformers installed physically apart from the sign, related wiring is the portion of the electric sign wiring that originates at the load-side terminals of a disconnecting means located immediately adjacent to the sign transformer supplying the electric sign involved, or originates within a junction box located immediately adjacent to the electric sign involved. Related wiring does not include the installation of the disconnecting means, complete with line-side

connections, or the installation of the junction box, complete with free-length circuit conductors to accommodate the connection of the related wiring in the box.

2.4.2.c. for permanent free-standing electric sign installations supplied through underground circuit conductors, related wiring is the portion of the electric sign wiring that originates at a wiring termination point located at, within, or immediately above the permanent base for the sign structure.

2.4.2.d. Related wiring does not include the installation of:

2.4.2.d.1. a junction box, located at, within, or immediately above the permanent base for the sign, complete with free-length circuit conductors to accommodate the connection of the related wiring; or

2.4.2.d.2. if the base of the sign structure is suitable for use as a raceway, the installation of bushing, complete with free-length circuit conductors extending through to accommodate the connection of the related wiring within the sign structure raceway.

2.4.2.e. For electric signs specifically designed to be connected directly to the building wiring raceway or cable supply, related wiring is the portion of the electric sign wiring that originates at the point where the free-length circuit conductors extend through the building wiring raceway or cable at the specifically designed supply location for the electric sign involved. Related wiring does not include the installation of the building wiring raceway or cable system to the specifically designated point of supply for the electric sign involved, complete with free-length circuit conductors extending through the building wiring raceway or cable to accommodate the connection of the related wiring.

2.4.3. A specialty single family residential dwelling electrician license (SP-SFD) which authorizes the licensee to install, maintain, or repair only electrical wiring and devices that are in or on a single family residential dwelling or an ancillary to a single family residential dwelling. Electrical work that is covered by another special restricted license can be performed by a SP-SFD licensee without obtaining the other special restricted license as long as it is in or on a single family residential dwelling or an ancillary to a single family residential dwelling.

2.4.3.a. A "single family residential dwelling" is a building or a manufactured home that is designed and used only for habitation by one family and is not physically attached to any other building or structure. Cabanas, porches, room additions, and similar structures are considered part of a single family dwelling if they are designed for and used only for residential purposes by the occupants of the dwelling.

2.4.3.b. An "ancillary" to a single family residential dwelling is an appurtenance or an outbuilding or similar structure associated with the single family dwelling such as a detached residential garage or carport, a farm or household equipment storage shed, a barn, a pump house, an electric fence, or yard lighting.

2.4.3.c. "Habitation" - means the occupancy of a dwelling primarily or exclusively for residential purposes.

2.4.4. A specialty low voltage electrician license (SP-LV) (Fire and Burglar Alarm Communication Systems) which authorizes the licensee to install, maintain, or repair only low voltage wiring, 80 volts or less, and directly related wiring. Wiring is directly related if it:

2.4.4.a. originates at the load-side terminals of a disconnecting means or junction box that:

2.4.4.a.1. has been installed, complete with line-side connections, by others for the specific purpose of supply the low voltage wiring system involved; and

2.4.4.a.2. is permanently and legibly marked to identify the low voltage wiring system supplied; and

2.4.4.b. is not installed in a location considered as hazardous under the National Electrical Code.

2.4.5. A specialty elevator electrician license (SP-EL) (Elevators, Dumbwaiter(s), Escalator(s), Moving Walk(s) and Personnel Hoist(s)) which authorizes the licensee to install, maintain, or repair electric wiring only as an incident to the licensee's elevator, dumbwaiter, escalator, moving walk, or personnel hoist business. Furthermore, the license authorizes the licensee to install, maintain, or repair only electrical wiring that:

2.4.5.a. is an integral part of an elevator, dumbwaiter escalator, moving walk, or personnel hoist;

2.4.5.b. is electrically isolated from the building wiring system by means of an overcurrent protective device, such as a safety switch or circuit breaker, that has been installed, complete with line-side connections, by others; and

2.4.5.c. originates at the load-side terminals of the protective isolating device, referred to as "beyond the disconnection means."

2.5. "Electrical Work" - means the installation of wires, conduits, apparatus, fixtures, other appliances, equipment, or systems for transmitting, carrying, controlling, or using electricity for light, heat, or power purposes. Controlling is not intended to mean low voltage thermostat temperature controls.

2.6. "License" - means a valid and current certificate of competency issued by the State Fire Marshal.

2.7. "Electrical Contractor" - means a person, firm or corporation who engages in the business of electrical work or employs master electricians, journeyman electricians, assistant/helper electricians for the construction, alteration or repair of any electrical wiring, equipment or systems for the purpose of controlling or furnishing heat, light or power.

2.8. "Supervise or Supervision" - means the drafting, coordinating and directing of the design, layout and load calculations of electrical systems. It is the intent of the word "supervise or supervision" that electrical design, layout and calculations be done by a Master Electrician. Supervision does not require that a master electrician to be physically present with a journeyman electrician during the electrical work. Assistant/helper electricians shall be supervised by a Master or Journeyman electrician. A Master or Journeyman electrician may not supervise more than three assistant/helper electricians on the job site. Provided, That upon notice to the State Fire Marshal from an approved WV Department of Education electrical vocational program; an instructor who holds a master electrician's license shall supervise his or her students performing work under the licensed instructor's direct and constant supervision.

2.9. "Appliance" - means utilization equipment sold at retail, generally other than industrial, normally built in standardized sizes or types, which is installed or connected as a unit to perform one or more functions such as clothes washing, air conditioning, food mixing, deep frying, etc.

2.10. "Posting of the License" as required by W. Va. Code §29-3B-2 - means placing a copy of the electrician license issued by the State Fire Marshal on each job site where electrical work is being performed.

2.11. "Offer to do Electrical Work" - means to agree to perform electrical work for compensation or hire.

2.12. "Design" - means to plan or layout electrical systems in sketches or drawings for use by licensed electricians. It includes, but is not limited to, determining the service components of electrical systems, the type and sizes of conductors, circuit breakers and other components of electrical systems necessary to accommodate the demand load.

2.13. "National Electrical Code" - The National Electrical Code for licensing of electricians is that Code promulgated by the National Fire Protection Association. Copies of the National Electrical Code may be obtained at the expense of the party making the request by writing: The National Fire Protection Association, 1 Batterymarch Park, Quincy, MA ~~02269~~ 02169.

2.14. "State Fire Commission" - means the members of the West Virginia State Fire Commission appointed in accordance with W. Va. Code §29-3-1 *et seq.*

2.15. "State Fire Marshal" - means the West Virginia State Fire Marshal and/or his designated representatives.

2.16. "Firm or Corporation" - means a lawful business entity which is qualified and authorized to do business in the State of West Virginia.

2.17. "Board" means a government agency, board, department, or other government entity that regulates a lawful occupation and issues an occupational license or other authorization to practice to an individual.

### **§103-5-3. Necessity of License and Local Ordinances.**

3.1. Necessity of License - Under provisions of applicable law, no electrical work may be performed, offered or engaged in for compensation or hire within the State of West Virginia by any person, firm, or corporation unless such person, firm, or corporation possesses a license issued by the State Fire Marshal in accordance with W. Va. Code §29-3B-1 *et seq.* and a copy of such license is posted on any job in which electrical work is being performed for hire. If any firm or corporation applies for, is granted and holds a valid electrician license, such license does not exempt electricians employed by, working directly or indirectly for, subcontracting for, or providing services to such firm or corporation from the requirement of also possessing journeyman or master electrician license.

3.1.1. Any non-compensation work not otherwise exempted from licensure under § subsection 3.3. of this rule shall be conducted under the supervision of a West Virginia licensed master or journeyman electrician.

3.2. Nonapplicability of Local Ordinances, Exclusive License - No municipality, local government, or county may require any license or other evidence of competence as an electrician from any person, firm, or corporation who or which holds a valid and current license issued by the State Fire Marshal, as a condition for the performance of electrical work within the State of West Virginia.

### **3.3. Exemptions; Nonapplicability of License Requirements**

These rules do not apply to and no license is required for:

3.3.1. Any person who performs electrical work with respect to property owned or leased by such person or that person's immediate family. For the purpose of this subparagraph: (1) "property owner" includes the property owner and lessee; and (2) "performs electrical work" includes routine maintenance, repairs, and improvements to;

3.3.2. Any person who performs electrical work at any manufacturing plant or other industrial establishment as an employee of the person, firm or corporation operating such plant or establishment, i.e. chemical industry, coal mining, manufacturing, and any other industries recognized in the Life Safety Code published by the National Fire Protection Association;

3.3.3. Any person who, while employed by an employer engaged in the business of selling appliances at retail, performs electrical work with respect to installation and repair of appliances as part of his regular duties provided the installation or repair of appliances does not require the entering of the electrical panel;

3.3.4. Any person who, while employed by a public utility or any of its affiliates, performs electrical work in connection with the furnishing of public utility service; or

3.3.5. Any person who performs electrical work as a government employee at property owned/leased by the government.

3.3.6. Any person who is assisting or helping a Licensed Electrician as defined in this rule.

#### **§103-5-4. Qualifications for Examination.**

4.1. "Master License": To apply for a "master electrician license" a person must have ~~two (2)~~ years of experience as a journeyman electrician in electrical work of such breadth, independence and quality that such work indicates that the applicant is competent to perform all types of electrical work and can direct and instruct journeyman electricians and assistant/helper electricians in the performance of electrical work.

4.2. "Journeyman License": To apply for a "journeyman electrician's license", a person must: (1) have at least ~~one (1)~~ years of experience as an assistant/helper electrician in performing electrical work under the direction or instruction of a master or journeyman electrician; (2) have completed a United States Department of Labor/Bureau of Apprenticeship and training registered electrical apprenticeship program; or (3) have completed an electrical vocational education program of at least one thousand eighty hours in length approved by the WV Board of Education which should include an on-the-job training/work hours module, successfully passed all final written and practical testing required by the WV Department of Education, and obtained an affidavit showing competency to sit for the journeyman electrician examination from the program instructor.

4.3. "Specialty License": To apply for a Specialty electrician license, a person must have at least ~~one (1)~~ year experience in their area of specialty of which ~~one (1)~~ year may be obtained through educational programs.

#### **§103-5-5. Examinations.**

5.1. Examination Required - After the effective date of these rules the State Fire Marshal shall issue an electrician license only to that person who has satisfactorily passed an examination for the level of licensure applied for, and who has otherwise met and complied with the requirements of these rules.

5.2. Form of Request - An applicant requesting an examination under the provisions of these rules must, as a condition precedent to such examination, furnish the State Fire Marshal with:

5.2.1. The class of license for which he/she seeks licensure, i.e. Master, Journeyman, or Specialty; and

5.2.2. A ~~twenty-five dollar (\$25.00)~~ application review fee, for the Master, Journeyman or Specialty examination. The fee is not returnable.

5.2.3. A history of experience and qualifications which must equal the years of experience required for the level of licensure that the applicant is seeking.

5.3. Classification Levels - An applicant must meet the minimum experience requirement in order to determine the appropriate licensure level for which to seek examination:

Minimum  
Experience Required For Examination

1 year or more Journeyman Electrician

2 years or more Master Electrician

1 year or more Specialty Electrician

5.4. The examination fee for testing will be forfeited by any applicant who fails to appear for examination unless at least 24 hours notification is given to the State Fire Marshal's Office prior to examination date. An additional examination fee must be paid to the State Fire Marshal if the applicant reapplies for the examination after not appearing for the first examination.

5.5. Failure to Meet Experience and/or Qualifications - Any person who fails to meet the required experience or qualifications for a certain level of licensure, when applying for an examination may change their application and select a lower level of licensure for which they do qualify without having to pay an additional review fee.

5.6. Age Requirement - An applicant must be ~~eighteen (18)~~ years of age in order to take any examination or to be issued a license. Provided, that if such applicant is currently enrolled in an approved West Virginia Department of Education electrical vocational program, such applicant may take the examination and upon passing the examination shall not be issued a license until they are ~~eighteen (18)~~ years of age.

5.7. Time of Request - An applicant must comply with the requirements of ~~§~~subsection 5.2<sub>2</sub> of this rule no later than ~~ten (10)~~ working days in advance of the next scheduled examination in order to receive the authorization for testing.

5.8. Authorization Form Required - An applicant complying with ~~§~~subsection's 5.2<sub>2</sub> and 5.7<sub>2</sub> of this rule will be issued a written authorization form acknowledging receipt of the application review fee and setting forth the level of competency for which testing is authorized. No person will be permitted to take the examination who is unable to present the authorization form at the place of examination.

5.9. License Fee - Upon passing the examination and receipt of license fee, the applicant shall be issued the appropriate license.

5.10. Scheduling of Examinations - Under provisions of applicable law, the State Fire Marshal shall prepare and arrange for the giving of examinations at least ~~four (4)~~ times each year. The State Fire Marshal may schedule examinations at such additional times at other locations as he deems necessary.

5.11. Location of Testing Centers - Tests will be administered in Charleston, WV at least ~~four (4)~~ times a year. Tests at other locations may be scheduled provided a sufficient number of applications have pre-registered. Notification of test locations to each applicant will be provided as required in subsection 5.8<sub>2</sub> of this rule; or

5.11.1. The State Fire Marshal may:

5.11.1.a. Contract with a private testing agent to conduct examinations; in which case applicants shall pay the testing agent's examination fee directly to the testing agent; or

5.11.1.b. Develop examinations and examination procedures and conduct examinations, in which case applicants shall pay the examination fee directly to the State Fire Marshal in advance of the examination.

5.12. Source of Questions - All examinations will be derived from the National Electrical Code published by the National Fire Protection Association. Each examination for each class of license will be appropriate in subject matter, difficulty and depth of the required competency.

5.13. Passing Grade - a passing grade of at least ~~seventy percent (70%)~~ on any test is required to permit the State Fire Marshal to issue an electrician license to any applicant.

#### **§103-5-6. License Without Examination.**

6.1. An applicant who has completed a United States department of labor/bureau of apprenticeship and training registered electrical apprenticeship program, or an electrical vocational education program of at least one thousand eighty hours in length and approved by the state board of education and has at least ~~two (2)~~ and ~~one (1)~~ year respectively years of experience in performing electrical work may be issued a one time nonrenewable temporary master or journeyman license for a period of ~~ninety (90)~~ days.

6.2. An applicant for a one time temporary license under ~~§~~subsection 6.1, shall pay a fee of ~~fifty dollars (\$50.00)~~.

6.3. Occupational License or other authorization to practice - Notwithstanding any other law, the board shall issue an occupational license or other authorization to practice to a person upon application, if all the following apply:

6.3.1. The person holds a valid occupational license or other authorization to practice in another state in a lawful occupation with a similar scope of practice and with education, experience, and examination requirements for licensure or authorization to practice similar to those of this state, as determined by the board in this state;

6.3.2. The person has held the occupational license or other authorization to practice in the state where he or she holds a valid license or other authorization to practice for at least one year;

6.3.3. The person has met all educational and examination requirements for occupational licensure or other authorization to practice in the state where he or she holds a valid license;

6.3.4. The person is in good standing with the board in every other state where he or she holds a valid license;

6.3.5. The person has established residency as a West Virginia resident as defined by §11-21-7(a) of this code;

6.3.6. The person does not have a disqualifying criminal record as determined by the board in this state;

6.3.7. The person has never had his or her license or other authorization to practice revoked by the board in another state because of negligence or intentional misconduct related to the person's work in the occupation;

6.3.8. The person did not surrender an occupational license or other authorization to practice because of negligence or intentional misconduct related to the person's work in the occupation in another state;

6.3.9. The person does not have a complaint, allegation, or investigation pending before a board in another state. If the person has a complaint, allegation, or investigation pending, the board in this state shall not issue or deny an occupational license or other authorization to practice to the person until the complaint, allegation, or investigation is resolved; and

6.3.10. The person pays all applicable fees and meets all applicable bonding requirements in this state.

6.3.11. If West Virginia requires an occupational license to lawfully work in a profession, and another state does not issue an occupational license for the same profession and instead issues another authorization to practice, West Virginia shall issue an occupational license to the person if the person otherwise satisfies section 6.3. of this rule.

6.3.12. Any person issued a license under this article must comply with all relevant continuing education requirements to renew a license established by the board and any other rule promulgated by the board as required in §29-33-8 of this code.

6.4. Notwithstanding any other law, the board shall issue an occupational license or other authorization to practice to a person upon application based on work experience in another state, if all the following apply:

6.4.1. The person worked in a state that does not use an occupational license or other authorization to practice that regulates a lawful occupation, but this state uses an occupational license or other authorization to practice that regulates a lawful occupation with a similar scope of practice, as determined by the board;

6.4.2. The person worked for at least two years in the lawful occupation and has acquired experience demonstrating knowledge and proficiency in the occupation similar to that which may be achieved through compliance with the education and examination requirements to practice of this state, as determined by the board;

6.4.3. The person has taken and passed any required national examinations to lawfully practice the occupation or use a title in connection with an occupation in another state; and

6.4.4. The person satisfies §29-33-3(a)(5), §29-33-3(a)(6), and §29-33-3(a)(10) of this code.

#### 6.5. State law examination.

6.5.1. A board may require a person to pass a jurisprudential examination specific to relevant West Virginia laws that regulate the occupation if an occupational license or other authorization to practice in this state requires a person to pass such examination for original licensure.

### **§103-5-7. Expiration and Renewal.**

7.1. Expiration - All electrician licenses issued by the State Fire Marshal expire on the ~~thirtieth~~ (30th) day of June each year.

7.2. Renewal Fee Required - The State Fire Marshal shall renew annually or for up to a three year time period, the electrician license of any licensee who makes application and upon payment of a renewal fee of

~~fifty dollars (\$50.00)~~ per year. It shall be the individual's responsibility to submit their license renewal request to the State Fire Marshal.

7.3. Renewal After Expiration - All electricians licenses not renewed in accordance with the provisions of ~~Subsection 7.2.~~ of this rule may be renewed by paying the ~~fifty dollar (\$50.00)~~ license fee and a ~~fifty dollar (\$50.00)~~ penalty fee within the licensure year. No person, firm, or corporation may perform electrical work during the period of time their license is expired. An electrician previously licensed by the WV State Fire Marshal who did not renew his or her electrician license, may renew without retesting within ~~five~~ 5 years of the date of the last renewal, provided that: the electrician's license had not been revoked and that the applicant pays double the current fee.

### **§103-5-8. Denial, Revocation or Suspension of License.**

8.1. Denial of License - A license will be denied any applicant who:

- 8.1.1. fails to make a passing score of 70% on any examination; or
- 8.1.2. fails to provide evidence of the required experience and/or qualifications for the class of license.

8.2. Suspension or Revocation of License - The State Fire Marshal may upon written complaint or his own inquiry, after notice and hearing as provided by W. Va. Code § 15A-10-1 *et seq.* suspend or revoke the license of any person who holds a license if:

- 8.2.1. The license was granted upon an application or documents supporting such application which materially misstated the terms of the applicant's qualifications or experience; or
- 8.2.2. The licensee subscribed or vouched for such misstatement by an applicant; or
- 8.2.3. The licensee incompetently or unsafely performs electrical work; or
- 8.2.4. The licensee violated any statute of the state of West Virginia, any rule lawfully promulgated by an agency of the state of West Virginia or any ordinance of any municipality or county of the state of West Virginia which protects the consumer or public against unfair, unsafe, unlawful or improper business practices; or
- 8.2.5. The licensee fails to comply with any rule of the State Fire Marshal promulgated to fulfill his responsibilities under W. Va. Code §29-3B-1 *et. seq.*

### **§103-5-9. Licensing Reciprocity.**

9.1. General Requirements.

9.1.1. The state fire marshal may enter into formal reciprocal agreements with other jurisdictions whereby nonresident electricians licensed by the other jurisdictions may obtain a West Virginia electrician license without written examination provided:

9.1.1.a. The applicant furnishes to the State Fire Marshal a written statement from his/her jurisdiction certifying that he or she holds a current electrician license issued by that jurisdiction;

9.1.1.b. The individual is duly qualified for the license currently issued to the applicant by his or her jurisdiction;

9.1.1.c. The applicant files an application on a form provided by the State Fire Marshal requesting a license under the formal licensing reciprocity agreement currently in effect between the State Fire Marshal and the applicant's jurisdiction;

9.1.1.d. Except for the written examination requirement, the applicant furnishes to the State Fire Marshal information satisfactorily verifying to the State Fire Marshal that he or she meets all the applicable sections of these rules; and

9.1.1.e. The applicant furnishes to the State Fire Marshal his or her check or money order for the annual license fee as required in Section 7 of these rules for the specific license classification requested.

9.2. All licenses issued under a formal reciprocal agreement expire on the ~~thirtieth~~ (30th) day of June each year.

9.3. The renewal due date and late filing penalty apply to licenses issued under a formal reciprocal agreement.

9.4. The State Fire Marshal shall not renew any license issued under a specific formal reciprocal agreement if the formal reciprocal agreement becomes invalid for any reason.

9.5. Exact copies of all formal reciprocal agreements entered into by the State Fire Marshal shall be maintained in the office of the State Fire Marshal.

9.6. A person is not eligible for a reciprocal electrician license who has taken an examination in the State of West Virginia and failed the examination or who has failed to renew an electrician license in accordance with Section 7 of this rule.

#### **§103-5-10. Effect of Noncompliance.**

10.1. Any person, firm, corporation or employee thereof, or any representative, member or officer of such firm or corporation, individually, entering upon or engaging in the business of performing any electrical work as defined in W. Va. Code § 29-3B-1 *et seq.* and these rules, without possessing the required license or otherwise complying with W. Va. Code § 29-3B-1 *et seq.*, is for the first offense guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than ~~one hundred dollars (\$100)~~, nor more than ~~five hundred dollars (\$500.00)~~. For a second and each subsequent offense, the penalty and punishment is a fine of not less than ~~five hundred dollars (\$500.00)~~ nor more than ~~one thousand dollars (\$1,000.00)~~.

Each day during which such electrical work is performed without the required license or while in non-compliance with any of the provisions of W. Va. Code § 29-3B-1 *et seq.*, after official notice that such work is unlawful, is a separate offense.

Any electrical work performed by a person, firm or corporation which is determined by the State Fire Marshal to constitute a safety or health hazard to members of the public or any electrical work of an extensive nature being performed by any person without the required license or otherwise in noncompliance with the requirements of this article or contrary to an order or rule promulgated lawfully by the State Fire Marshal, is subject to a civil action in the name of the state in the circuit court of the county, where such work is being performed for an injunction against such person, firm or corporation, enjoining such work or violation. A circuit court by mandatory or prohibitory injunction may compel compliance with the provisions of W. Va. Code § 29-3B-1 *et seq.*, with the lawful orders of the State Fire Marshal and with any final decision of the State Fire Marshal or State Fire Commission. The State Fire Marshal shall be represented in all such proceedings by the attorney general or his assistants.

**§ 103-5-11. Disposition of Fees, Fines and Other Receipts.**

11.1. All fees and other monies received as a result of actions under this article shall be paid to the State Fire Marshal and deposited by him in a special account with the State Treasurer.

11.2. The fees deposited in the special account shall be used as provided by W. Va. Code § 29-3-12(b).

**§ 103-5-12. Enforcement.**

12.1. Enforcement of Licensure Requirements - In the course of investigating complaints as authorized under the West Virginia Code, the State Fire Marshal and/or his designated representative shall inquire respecting the licensure of person(s), firm(s), or corporation(s) in compliance with W. Va. Code § 15A-10-7(c), *et seq.* and these rules.

12.2. Enforcement by Others - Any citizen, law enforcement official or other official of any state, county, or municipal government agency, upon observing an infraction of the licensure requirements of W. Va. Code § 29-3B-1 *et seq.* may make a written complaint to the office of the State Fire Marshal or alternatively may initiate a complaint with any magistrate, court or law enforcement agency. When a complaint is made to the Office of the State Fire Marshal, that Office shall investigate the complaint, make a written report respecting its findings and take any enforcement measures required by W. Va. Code § 29-3B-1 *et seq.*

**§103-5-13. Causes for Denial, Limitation, Suspension or Revocation of Certifications of Electricians.**

13.1. The State Fire Marshal shall deny, limit, suspend, or revoke a license issued if the provisions of this article, or if the rules promulgated pursuant to this article or §15A-11-1 *et seq.* of this code are violated.

13.1.1. Before any such license is denied, limited, suspended, or revoked, however, written notice shall be given to the licensee stating the grounds for such denial, limitation, suspension, or revocation.

13.1.2. An applicant or licensee has 10 working days after receipt of the order denying, limiting, suspending, or revoking a license to request a formal hearing contesting the denial, limitation, suspension, or revocation of a license under this article. If a formal hearing is requested, the applicant or licensee and the secretary shall proceed in accordance with the provisions of §29A-5-1 *et seq.* of this code.

13.1.3. If the license is denied, limited, suspended, or revoked, the license or certification holder shall cease and desist practices of their profession as of the effective date of the denial, limitation, suspension, or revocation. Any administrative appeal of such denial, limitation, suspension, or revocation shall not stay the denial, limitation, suspension, or revocation.

13.2. A party aggrieved by a decision by the State Fire Marshal may appeal such final decision to the Office of Administrative Hearings, pursuant to §15A-9-1 *et seq.* of this code, or may choose independent informal dispute resolution as set forth in this article.

13.2.1. Then a party may appeal the hearing examiner's decision to the Intermediate Court of Appeals as the Intermediate Court of Appeals has appellate jurisdiction over all "[f]inal judgments, orders, or decisions of an agency or administrative law judge entered after June 30, 2022" per West Virginia Code §51-11-4(b)(4).

13.3. Independent informal dispute resolution.

13.3.1. A license or certification holder adversely affected by an order or citation of a deficient practice issued pursuant to this article may request the independent informal dispute resolution process. A license or certificate holder may contest a cited deficiency as contrary to law or unwarranted by the facts or both.

13.3.2. The State Fire Marshal has the authority to establish conference panels composed of ~~three~~ 3 persons of the licensed or certified skill to decide the outcome of the independent informal dispute resolution process. One member shall be selected by the State Fire Marshal, one member shall be selected by the licensee or certificate holder, and one member shall be selected by agreement of both. If a vacancy occurs on the panel, the replacement for that member shall be made by the original individual who had selected such member. The members of the panel shall serve without compensation. This panel shall hear the matter and render a decision. The licensee or certificate holder may not be accompanied by counsel during the independent informal dispute resolution conference.

13.3.3. Upon appeal of a decision rendered by the State Fire Marshal, the panel shall hold an informal conference affirming, modifying, or vacating an order of the State Fire Marshal, or issuing an order in the name of the State Fire Marshal. The panel shall forthwith notify the parties of its decision and as soon as practicable send written notices of its decision to the parties. The decision of the panel is final. The independent informal dispute resolution process is not a formal evidentiary proceeding.

13.3.4. A party aggrieved by a decision of a panel may appeal pursuant to ~~§29A-5-1 et seq.~~ 29A-5-4 of this code.

13.3.5. The State Fire Marshal shall promulgate a procedural rule to carry out the provisions of this section.

#### **§103-5-14. Severability.**

14.1. The sections of this rule are severable. Should any section be declared by judicial opinion unconstitutional or in any manner contrary to the laws of the State of West Virginia, that particular section shall be invalid and all other sections shall remain in full force and effect.