

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2006

—————
A N A C T

RELATING TO BUSINESSES AND PROFESSIONS – CONTRACTORS' REGISTRATION

Introduced By: Representatives Lima, Gallison, Wasylyk, Melo, and Moffitt

Date Introduced: June 15, 2006

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 5-65-1, 5-65-3, 5-65-5, 5-65-6, 5-65-7, 5-65-7.1, 5-65-9, 5-65-10,
2 5-65-11, 5-65-12, 5-65-18, 5-65-19 and 5-65-24 of the General Laws in Chapter 5-65 entitled
3 "Contractors' Registration" are hereby amended to read as follows:

4 **5-65-1. Definitions.** -- As used in this chapter:

5 (1) "Board" means the contractors' registration board established pursuant to the
6 provisions of Rhode Island general laws section 5-65-14.

7 (2) "Commission" means the building code commission supportive of the contractors'
8 registration board.

9 (3) (i) "Contractor" means a person who, in the pursuit of an independent business,
10 undertakes or offers to undertake or submits a bid, or for compensation and with or without the
11 intent to sell the structure arranges to construct, alter, repair, improve, move over public
12 highways, roads or streets or demolish a structure or to perform any work in connection with the
13 construction, alteration, repair, improvement, moving over public highways, roads or streets or
14 demolition of a structure, and the appurtenances thereto. "Contractor" includes, but is not limited
15 to, any person who purchases or owns property and constructs or for compensation arranges for
16 the construction of one or more structures.

17 (ii) A certificate of registration is necessary for each "business entity" regardless of the
18 fact that each entity may be owned by the same individual.

19 (4) "Dwelling unit" means a single unit providing complete independent living facilities

1 for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and
2 sanitation.

3 (5) "Hearing officer" means a person designated by the executive director, with the
4 approval of the director of the department of administration to hear contested claims or cases,
5 contested enforcement proceedings, and contested administrative fines, in accordance with the
6 Administrative Procedures Act, chapter 35 of title 42.

7 (6) "Staff" means the executive director for the contractors' registration board, and any
8 other staff necessary to carry out the powers, functions and duties of the board including
9 inspectors, hearing officers and other supportive staff.

10 (7) "State" means the state of Rhode Island.

11 (8) "Structure" means ~~a residence or commercial building, including a site built home, a~~
12 ~~modular home constructed off site, a condominium, a manufactured home, a mobile home, and~~
13 ~~duplex or multi unit residential building, consisting of four (4) dwelling units or less. This~~
14 ~~definition includes and is preempted by the regulations promulgated by the state building code~~
15 ~~commission rules and regulations for family dwellings and multi family dwellings. any building~~
16 containing one or more residences and their appurtenances. The board's dispute resolution
17 process shall apply only to residential structures containing dwelling units as defined in the state
18 building code or residential portions of other types of buildings without regard to how many units
19 any structure may contain. The board retains jurisdiction and may conduct hearings regarding
20 violations against all contractors required to be registered.

21 (9) "Substantially" means any violation, which affects the health, safety, and welfare of
22 the general public.

23 **5-65-3. Registration for work on a structure required of contractor -- Issuance of**
24 **building permits to unregistered or unlicensed contractors prohibited -- Evidence of activity**
25 **as a contractor -- Duties of contractors. --** (a) A person shall not undertake, offer to undertake,
26 or submit a bid to do work as a contractor on a structure or arrange to have work done unless that
27 person has a current, valid certificate of registration for all construction work issued by the board.
28 A partnership, corporation, or joint venture may do the work, offer to undertake the work, or
29 submit a bid to do the work only if that partnership, corporation, or joint venture is registered for
30 the work. In the case of registration by a corporation or partnership, an individual shall be
31 designated to be responsible for the corporation's or partnership's work. The corporation or
32 partnership and its designee shall be jointly and severally liable for the payment of the
33 registration fee, as requested in this chapter, and for violations of any provisions of this chapter.
34 Disciplinary action taken on a registration held by a corporation, partnership, or sole proprietor

1 may affect other registrations held by the same corporation, partnership, or sole proprietorship,
2 and may preclude future registration by the principal of that business entity.

3 (b) A registered partnership or corporation shall notify the board [in writing](#) immediately
4 upon any change in partners or corporate officers.

5 (c) A city, town, or the state shall not issue a building permit to anyone required to be
6 registered under this chapter who does not have a current, valid certificate of registration
7 identification card or valid license which shall be presented at the time of issuance of a permit
8 and shall become a condition of a valid permit. Each city, town, or the state which requires the
9 issuance of a permit as a condition precedent to construction, alteration, improvement,
10 demolition, movement or repair of any building or structure or the appurtenance to the structure
11 shall also require that each applicant for the permit file as a condition to issuing the permit a
12 written ~~statement~~ [affidavit subject to the penalties of perjury](#), subscribed by the applicant, that the
13 applicant is registered under the provisions of this chapter, giving the number of the registration
14 and stating that the registration is in full force and effect, or, if the applicant is exempt from the
15 provisions of this chapter, listing the basis for the exemption. The city, town, or the state shall list
16 the contractor's registration number on the permit obtained by that contractor, and if a homeowner
17 is issued a permit, the building inspector or official must ascertain registration numbers of each
18 contractor on the premises and shall inform the registration board of any non-registered
19 contractors performing work at the site.

20 (d) Every city and town which requires the issuance of a business license as a condition
21 precedent to engaging, within the city or town, in a business which is subject to regulation under
22 this chapter, shall require that each licensee and each applicant for issuance or renewal of the
23 license file, or has on file, with the city or town a signed statement that the licensee or applicant is
24 registered under the provisions of this chapter and stating that the registration is in full force and
25 effect.

26 (e) It shall be prima facie evidence of doing business as a contractor when a person for
27 that person's own use performs, employs others to perform, or for compensation and with the
28 intent to sell the structure, arranges to have performed any work described in section 5-65-1(3) if
29 within any one twelve (12) month period that person offers for sale one or more structures on
30 which that work was performed.

31 (f) Registration under this chapter shall be prima facie evidence that the registrant
32 conducts a separate, independent business.

33 (g) The provisions of this chapter shall be exclusive and no city or town shall require or
34 shall issue any registrations or licenses nor charges any fee for the regulatory registration of any

1 contractor registered with the board. Nothing in this subsection shall limit or abridge the authority
2 of any city or town to license and levy and collect a general and nondiscriminatory license fee
3 levied upon all businesses, or to levy a tax based upon business conducted by any firm within the
4 city or town's jurisdiction, if permitted under the laws of the state.

5 (h) (1) Every contractor shall maintain a list which shall include the following
6 information about all subcontractors or other contractors performing work on a structure for that
7 contractor:

8 (i) Names and addresses.

9 (ii) Registration numbers or other license numbers.

10 (iii) Contracts entered into must contain notice of right of rescission as stipulated in all
11 pertinent Rhode Island consumer protection laws.

12 (iv) The contractor must stipulate whether or not all the proper insurances are in effect
13 for each job contracted.

14 ~~(2)~~ (v) The list referred to in subdivision ~~(4)~~ (h) of this subsection shall be delivered to
15 the board within twenty-four (24) hours after a request is made during reasonable working hours,
16 or a fine of twenty-five dollars (\$25.00) may be imposed for each the offense.

17 (i) The following subcontractors who are not employees of a registered contractor must
18 obtain a registration certificate prior to conducting any work: (1) carpenters, including finish
19 carpenters and framers; (2) siding installers; (3) roofers; (4) foundation installers, including
20 concrete installers and form installers; (5) drywall installers; (6) plasterers; (7) insulation
21 installers; (8) ceramic tile installers; (9) floor covering installers; (10) swimming pool installers,
22 both above ground and in ground; (11) masons, including chimney installers, fireplace installers,
23 and general masonry erectors. This list is not all inclusive and shall not be limited to the above
24 referenced contractors. No subcontractor licensed by another in-state agency pursuant to section
25 5-65-2 shall be required to register, provided that said work is performed under the purview of
26 that license.

27 (j) A contractor including, but not limited to, a general contractor, shall not hire any
28 subcontractor or other contractor to work on a structure unless the contractor is registered under
29 this chapter or exempt from registration under the provisions of section 5-65-2.

30 (k) A summary of this chapter, prepared by the board and provided at cost to all
31 registered contractors, shall be delivered by the contractor to the owner when the contractor
32 begins work on a structure; failure to comply may result in a fine.

33 (l) The registration number of each contractor shall appear in any advertising by that
34 contractor. Advertising in any form by an unregistered contractor shall be prohibited, including

1 alphabetical or classified directory listings, vehicles, business cards, and all other forms of
2 advertisements. The violations could result in a penalty being assessed by the board per
3 administrative procedures established.

4 (i) The board may publish, revoke or suspend registrations and the date the registration
5 was suspended or revoked on a quarterly basis.

6 (ii) Use of the word "license" in any form of advertising when only registered may
7 subject the registrant or those required to be registered to a fine of one hundred dollars (\$100) for
8 each offense at the discretion of the board. Provided, however, that fines issued for a violation of
9 this subsection shall only be issued as a secondary offense actionable only in connection with a
10 final order issued by the board for violations of other sections of this chapter.

11 (m) The contractor must see that permits required by the state building code are secured
12 on behalf of the owner prior to commencing the work involved. The contractor's registration
13 number must be affixed to the permit as required by the state building code.

14 (n) The board may assess an interest penalty when claims have been filed with the board
15 at twelve percent (12%) annually.

16 (o) Effective October 1, 2006, all work performed, including labor and materials, in
17 excess of one thousand dollars (\$1,000) shall be accompanied by a contract in writing. Contracts
18 required pursuant to this subsection shall include a location on or near the signature line location
19 on or in which the parties to the contract shall initial to evidence the receipt of certain consumer
20 education materials or information approved and provided by the board to the contractor. Said
21 educational materials and/or information shall include, but not be limited to, the following notice
22 and shall be provided by the contractor to the homeowner:

23 NOTICE OF POSSIBLE MECHANIC'S LIEN

24 To: Insert name of owner, lessee or tenant, or owner of less than the simple fee.

25 The undersigned is about to perform work and/or furnish materials for the construction,
26 erection, alterations or repair upon the land at (INSERT ADDRESS) under contract with you.
27 This a notice that the undersigned and any other persons who provide labor and materials for the
28 improvement under contract with the undersigned may file a mechanic's lien upon the land in the
29 event of nonpayment to them. It is your responsibility to assure yourself that those other persons
30 under contract with the undersigned receive payment for their work performed and materials
31 furnished for the construction, erection, alteration or repair upon the land.

32 Failure to adhere to the provisions of this subsection may result in a one thousand dollars
33 (\$1,000) fine against the contractor.

34 **5-65-5. Registered application.** – (a) A person who wishes to register as a contractor

1 shall submit an application, under oath, upon a form prescribed by the board. The application
2 shall include the following information regarding the applicant:

3 (1) Workers' compensation insurance account number, or company name if a number has
4 not yet been obtained, if applicable;

5 (2) Unemployment insurance account number if applicable;

6 (3) State withholding tax account number if applicable;

7 (4) Federal employer identification number, if applicable, or if self-employed and
8 participating in a retirement plan;

9 (5) The individual(s) name and business address and residential address of:

10 (i) Each partner or venturer, if the applicant is a partnership or joint venture;

11 (ii) The owner, if the applicant is an individual proprietorship;

12 (iii) The corporation officers and a copy of corporate papers filed with the Rhode Island
13 secretary of states office, if the applicant is a corporation;

14 (iv) Post office boxes are not acceptable as the only address.

15 (6) A ~~statement~~ signed affidavit subject to the penalties of perjury of whether or not the
16 applicant has previously applied for registration, or is or was an officer, partner, or venturer of an
17 applicant who previously applied for registration and if so, the name of he corporation,
18 partnership, or venture.

19 (7) Valid insurance certificate for the type of work being performed.

20 (b) A person may be prohibited from registering or renewing registration as a contractor
21 under the provisions of this chapter or his or her registration may be revoked or suspended if he
22 or she has any unsatisfied or outstanding judgments from arbitration, bankruptcy, courts and/or
23 administrative agency against him or her relating to their work as a contractor, and provided,
24 further, that an affidavit subject to the penalties of perjury shall be provided to the board attesting
25 to the information herein.

26 (c) Falsified information on, or failure to provide any document required by this chapter
27 is punishable by a fine not to exceed ten thousand dollars (\$10,000).

28 (d) Applicant must be at least eighteen (18) years of age.

29 **5-65-6. Contractor to notify of address change -- Effect of mail to last known**
30 **address.** -- It is the duty of a contractor to notify the board in writing of any change of address
31 while registered and for one year following the date the contractor's registration expires or
32 becomes inactive. The contractor shall notify the board in writing within ten (10) days of the date
33 upon which the change of address occurs. Any proposed or final order or notice of hearing
34 directed by the board to the last known address of record shall be considered delivered when

1 deposited in the United States mail and/or sent registered or certified or post office receipt
2 secured. Any other communication directed by the board to the last known address of record shall
3 be considered delivered when deposited in the United States mail, regular mail.

4 **5-65-7. Insurance required of contractors.** -- (a) Throughout the period of registration,
5 the contractor shall have in effect public liability and property damage insurance covering the
6 work of that contractor which shall be subject to this chapter in not less than the following
7 amount: ~~three~~ five hundred thousand dollars (~~\$300,000~~) (\$500,000) combined single limit, bodily
8 injury and property damage.

9 (b) In addition, all contractors shall have in effect worker's compensation insurance as
10 required under chapter 29 of title 28. Failure to maintain required insurance shall not preclude
11 claims from being filed against a contractor.

12 (c) The contractor shall provide satisfactory evidence to the board at the time of
13 registration and renewal that the insurance required by subsection (a) of this section has been
14 procured and is in effect. Failure to maintain insurance shall invalidate registration and may result
15 in a fine to the registrant.

16 **5-65-7.1. Notice of cancellation or failure to renew policies.** -- Upon the cancellation or
17 failure to renew, the insurance company having written a liability policy, as described in section
18 5-65-7, shall notify the director of the contractors' registration board of the cancellation or failure
19 to renew. The policy shall continue in effect until ten (10) days after written notice of the
20 cancellation is given to the director of the contractors' registration board of the cancellation or
21 termination of the liability policy by the issuing insurance company or companies in addition to
22 any other notices which may be required by law. Any insurance company that fails to notify the
23 director as required in this section shall be subject to prosecution for a misdemeanor and upon
24 conviction of that offense may be punished by a fine of not more than two hundred fifty dollars
25 (\$250) for each offense and shall be responsible for any claims, fines or penalties from any
26 parties resulting from lack of notice. All criminal actions for any violation of this section shall be
27 prosecuted by the attorney general. The attorney general shall prosecute actions to enforce the
28 payment penalties and fines at the request of the director.

29 **5-65-9. ~~Registration fee.~~ Registration fee – Contractors' restricted account.** -- (a)
30 Each applicant shall pay to the board:

31 (1) For original registration or renewal of registration, a fee of one hundred twenty
32 dollars (\$120).

33 (2) A fee for all changes in the registration, as prescribed by the board, other than those
34 due to clerical errors.

1 (b) All fees and fines collected by the board shall be deposited as general revenues to
2 support the activities set forth in this chapter.

3 (c) Each year, the executive director shall prepare a proposed budget to support the
4 programs approved by the board. The proposed budget shall be submitted to the board for its
5 review. A final budget request shall be submitted to the legislature as part of the ~~division of~~
6 ~~central services~~ capital projects and property management annual request.

7 (d) New or renewal registrations may be filed online or with a third-party approved by
8 the board, with the additional cost incurred to be borne by the registrant.

9 **5-65-10. Grounds for discipline -- Injunctions.** -- (a) The board or commission may
10 revoke, suspend, or refuse to issue, reinstate, or reissue a certificate of registration if the board or
11 commission determines after notice and opportunity for a hearing:

12 (1) That the registrant or applicant has violated section 5-65-3.

13 (2) That the insurance required by section 5-65-7 is not currently in effect.

14 (3) That the registrant or applicant has engaged in conduct as a contractor that is
15 dishonest or fraudulent that the board finds injurious to the welfare of the public.

16 (4) Has violated a rule or order of the board.

17 (5) That the registrant has knowingly assisted an unregistered person to act in violation
18 of this chapter.

19 (6) That a lien was filed on a structure under chapter 28 of title 34 because the registrant
20 or applicant wrongfully failed to perform a contractual duty to pay money to the person claiming
21 the lien.

22 (7) That the registrant has substantially violated state or local building codes.

23 (8) That the registrant has made false or fraudulent statements on his or her application.

24 (9) That a registrant has engaged in repeated acts in violation of this chapter and the
25 board's rules and regulations inclusive of substandard workmanship and any misuse of
26 registration.

27 (10) The board may take disciplinary action against a contractor who performed work or
28 arranged to perform, while the registration was suspended, invalidated or revoked. Deposits
29 received by a contractor and ordered returned are not considered a monetary award when no
30 services or supplies have been received.

31 (11) That the registrant breached a contract.

32 (12) That the registrant performed negligent and/or improper work.

33 (13) That the registrant has advertised with a license number instead of using a
34 registration number.

1 (14) That the registrant has failed to complete a project(s) for construction or a willful
2 failure to comply with the terms of a contract or written warranty.

3 (15) That the registrant has misrepresented his registration status as valid when said
4 registration is suspended, revoked, invalidated, inactive or unregistered as required by the board.

5 (16) That the registrant has failed to pay a fine or respond to any order issued by the
6 board.

7 (b) In addition to all other remedies, when it appears to the board that a person has
8 engaged in, or is engaging in, any act, practice or transaction which violates the provisions of this
9 chapter, the board may direct the attorney general to apply to the court for an injunction
10 restraining the person from violating the provisions of this chapter. An injunction shall not be
11 issued for failure to maintain the list provided for in section 5-65-3(h) unless the court determines
12 that the failure is intentional.

13 (c) (1) The board at its discretion may, after a hearing, impose a fine ~~in an amount not to~~
14 ~~exceed five hundred dollars (\$500) for the first violation of this chapter, or any rules or~~
15 ~~regulations promulgated by the board per day per offense. In addition, when claims are filed, the~~
16 ~~board may impose a fine upon the contractor in an amount not to exceed ten thousand dollars~~
17 ~~(\$10,000) when a contractor fails to complete work as ordered by the board or commission. The~~
18 ~~fine may include the contract price or the value of corrective measures, the dollar amount of an~~
19 ~~imposed lien, as well as incidental damages incurred by the prevailing party.~~ up to but not to
20 exceed the face value of the contract or the actual damages caused by the contractor, whichever
21 shall be greater. Where the claim is for actual damages the board shall require proof satisfactory
22 to the board indicating said damages. Where corrective work is completed as ordered by the
23 board, the fine ~~shall not be imposed.~~ assessed may be reduced as determined by the board. Fines
24 and decisions on claims or violations can be imposed against registered as well as contractors
25 required to be registered by the board.

26 (2) For each ~~second~~ subsequent violation of a particular subsection of this chapter or of a
27 rule or regulation promulgated by the board, a fine ~~of a minimum of five hundred dollars (\$500)~~
28 ~~but not to exceed one thousand dollars (\$1,000)~~ not to exceed ten thousand dollars (\$10,000) may
29 be imposed after a hearing by the board. ~~All subsequent violations shall impose fines at a~~
30 ~~minimum of one thousand dollars (\$1,000) but not to exceed five thousand dollars (\$5,000).~~ All
31 fines collected by the board shall be deposited ~~as general revenues~~ into the contractors' restricted
32 account or as general revenues to be used to enforce the provisions of this chapter.

33 (3) For the first violation of section 5-65-3, only for non-registered contractors, a
34 ~~minimum mandatory~~ fine of ~~two hundred fifty dollars (\$250)~~ up to five thousand dollars (\$5,000)

1 for a first offense and up to ten thousand dollars (\$10,000) for each subsequent offense shall be
2 imposed, ~~not to exceed one thousand dollars (\$1,000).~~

3 (d) The hearing officer, upon rendering a conclusion may require the registrant, in lieu of
4 a fine, to attend continuing education courses as appropriate. Failure to adhere to the requirement
5 could result in immediate revocation of registration.

6 (e) The expiration of a registration by operation of law or by order or decision of the
7 board or a court, or the voluntary surrender of registration by the registrant, does not deprive the
8 board of jurisdiction, an action or disciplinary proceeding against the registrant or to render a
9 decision suspending or revoking a registration.

10 (f) In emergency situations, when a registrant is acting to the detriment of the health,
11 welfare and safety of the general public, the board's executive director may revoke or suspend a
12 registration without a hearing for just cause for a period of thirty (30) days.

13 (g) A registrant may petition the board to partially or completely expunge his or her
14 record.

15 (h) Any person or contractor, registered or not, who uses another contractor's registration,
16 contractor's registration identification card, or allows another person to use their contractor's
17 registration fraudulently in any way, will be subject to a fine not exceeding ten thousand dollars
18 (\$10,000).

19 (i) When the use of fraudulent advertising entices an individual to hire an unregistered
20 contractor, a fine of up to ten thousand dollars (\$10,000) may be imposed by the board.

21 (j) It shall be unlawful to retain a social security number or copy of the driver's license
22 from a registrant by a building official as a condition of obtaining a permit.

23 (k) The board is further authorized upon certain findings or violations to:

24 (1) Put a lien on property held by a contractor.

25 (2) Take action on registrant when the continuing education requirements have failed to
26 be attained as required in rules and regulations.

27 (3) When upon investigation a complaint reveals: serious code infractions; unsatisfied
28 mechanic's liens; abandonment of a job for a substantial period of time without apparent cause; or
29 any other conduct detrimental to the public, the board can double the fines.

30 (4) Suspend, revoke or refuse to issue, reinstate or reissue a certificate of registration to
31 any registrant who has contracted, advertised, offered to contract or submitted a bid when the
32 contractor's registration is suspended, revoked, invalidated or inactive or unregistered as required
33 by the board.

34 **5-65-11. Types of allowable claims.** -- The board shall only accept and make

1 determinations of the following types of claims for damages against contractors [registered or](#)
2 [required to be registered](#). This section shall apply to the following types of claims:

3 (1) Claims against a contractor by the owner of a structure for the following in
4 performing any work subject to this chapter:

- 5 (i) Negligent work.
- 6 (ii) Improper work.
- 7 (iii) Breach of contract.
- 8 [\(iv\) Contract disputes.](#)

9 (2) Claims against a contractor by the owner of a structure to discharge or to recoup funds
10 expended in discharging a lien established under chapter 28 of title 34 and under circumstances
11 described under this subsection. The board may reduce any amount adjudged by the board under
12 this section by any amount the claimant owes the contractor. The board shall only determine
13 claims under this subsection if:

14 (i) The owner has paid the contractor for that contractor's work subject to this chapter;
15 and

16 (ii) A lien is filed against the structure of the owner under chapter 28 of title 34 because
17 the contractor failed to pay the person claiming the lien for that person's contribution toward
18 completion of the structure.

19 (3) Claims against a registered contractor by a registered contractor for the following in
20 performing any work subject to this chapter:

- 21 (i) Negligent work;
- 22 (ii) Improper work;
- 23 (iii) Breach of contract; ~~or~~
- 24 (iv) Furnishing labor or material or renting or supplying equipment to a contractor; ~~or~~ [or](#)
- 25 [\(v\) Contract dispute.](#)

26 (4) Claims by an employee of a registered contractor.

27 (5) If at a hearing the contractor's registration number is not on the contract, or recession
28 clause when required by law, or mechanics lien notice; the registrant shall be subject to a fine.

29 (6) If a settlement/agreement reached by the parties, or payment plan is breached, the
30 board may hold an administrative hearing to suspend or revoke the contractors' registration,
31 impose a fine, and provide monetary relief.

32 **5-65-12. Procedure for making claims against a contractor -- Investigation by board**

33 **-- Disciplinary action.** -- (a) Any person having a claim against a contractor of the type referred
34 to in section 5-65-11, may file with the board a statement of the claim in any form and with any

1 fee that the board prescribes. The filing fee may be reimbursed to the claimant by the respondent,
2 if the respondent is found to be at fault. Claims resolved prior to issuance of an order may be
3 removed from the contractor's registration board record pursuant to administrative regulations.

4 (1) All claims filed with the contractor's registration board shall be heard by a designated
5 hearing officer, unless either party prior to the administrative hearing, files a civil action on the
6 matter in a state court. Upon receipt of a written notice and a copy of the filed civil complaint the
7 board shall discontinue processing the claim. If documentation is not received, the hearing will be
8 conducted.

9 (2) A court judgment may constitute the basis for regulatory action against a contractor's
10 registration, which may result in the imposition of fines and penalties. [A petition to enforce a
11 mechanic's lien does not necessarily constitute a civil action for purposes of this section.](#)

12 (b) The board may refuse to accept, or refuse at any time to continue processing a claim
13 if:

14 (1) The same facts and issues involved in the claim have been submitted to any other
15 entity authorized by law or the parties to effect a resolution and settlement;

16 (2) The claimant does not permit the contractor against whom the claim is filed to be
17 present at any inspection made by the board;

18 (3) The board determines that the contractor against whom the claim is filed is capable of
19 complying with the recommendations made by the board relative to the claim, but the claimant
20 does not permit the contractor to comply with the recommendations. The board may refuse to
21 accept further process of a claim under this paragraph only if the contractor was registered at the
22 time the work was first performed and is registered at the time the board makes its
23 recommendations; or

24 (4) The board determines that the nature or complexity of the claim is such that a court is
25 the appropriate forum for the adjudication of the claim.

26 (c) The board shall not process a claim unless it is filed in a timely manner as follows:

27 (1) If the owner of a new structure files the claim, the board must receive the claim not
28 later than one year after the date the structure was first occupied as determined from the date of
29 issuance of the certificate of occupancy, or one year after the date of the closing on the structure,
30 whichever occurs later.

31 (2) If the owner of an existing structure files the claim, the board must receive the claim
32 not later than one year after the date the work was substantially completed as determined by the
33 certificate of occupancy, or the date that work ceased.

34 (3) Regardless of whether the claim involves a new or existing structure, if the owner

1 files the claim because the contractor failed to begin the work pursuant to a written contract, the
2 board must receive the claim not later than one year after the date the parties entered into a
3 written contract.

4 (4) Regardless of whether the claim involves a new or existing structure, if the owner
5 files a claim because the contractor failed to substantially complete the work, the board must
6 receive the claim not later than one year after the date the contractor ceased work on the structure.

7 (5) If a registered general contractor files the claim against a registered subcontractor,
8 because the subcontractor failed to substantially complete the work, the board must receive the
9 claim not later than one year after the date the subcontractor ceased to work on the structure.

10 (6) If a material or equipment supplier, an employee, or a registered subcontractor files
11 the claim, the board must receive the claim not later than one year after the date the registrant
12 incurred the indebtedness.

13 (7) Any corrective work performed to resolve a claim shall be the responsibility of the
14 contractor for one year beyond the completion date but only for corrective work performed.

15 (d) Upon acceptance of the statement of claim, the board shall give notice to the party
16 against whom the claim is made and shall initiate proceedings to determine the validity of the
17 claim. If, after investigation, the board determines that a violation of this chapter or of any rule
18 promulgated under this chapter has occurred, the board shall recommend to the registrant any
19 action that the board considers appropriate, including revocation of the registrant's certificate, to
20 compensate the claimant for any damages incurred as the result of the violation. If the contractor
21 performs accordingly, the board shall give that fact due consideration in any subsequent
22 disciplinary proceeding brought by the board; provided, that the board shall suspend for a period
23 of one year certification of any registrant who is found by final determination to have willfully
24 and knowingly violated any provisions of this chapter with respect to three (3) or more structures
25 within a one year period.

26 (e) In any action brought by a person under this chapter, the board may award, in addition
27 to the relief provided in this section, treble damages, reasonable attorneys' fees and costs and any
28 award for services of process costs pursuant to section 5-65-26.

29 (f) Notwithstanding any language limiting an action pursuant to this chapter, whenever a
30 consumer shall notify, in writing, a contractor of any problem with work performed by a
31 contractor or subcontractor within one year of the completion of the work and said problem has
32 not been corrected by the contractor or subcontractor, the aggrieved party shall have up to two (2)
33 years from the date of completion of the contractor's work to file a claim with the contractors'
34 registration board. Such two (2) year period shall not be construed as an extension of any one

1 [year warranty period expressed in any contract.](#)

2 **5-65-18. Mechanics' lien notice.** -- As applicable to and in accordance with section 5-
3 65-1 et seq., all written contracts entered into between a contractor under this chapter and a
4 property owner must contain a statement that the contractor, subcontractors, or materialpersons
5 may file a lien in accordance with the Rhode Island Mechanics Lien Act, chapter 28 of title 34.
6 [In the event that mechanics' liens are filed and there is no serious dispute, but merely a failure to](#)
7 [pay, then the board may impose a suspension of the registration until such time as the liens are](#)
8 [satisfied, either by payment, deposit of the funds in the registry of the court, or with the board.](#)

9 **5-65-19. ~~Penalty for operating without a registration and failure to comply with a~~**
10 **~~final order of the board.~~ Penalty for operating without a registration -- Failure to comply**
11 **with a final order of the board – Repeat offense a felony.** -- (a) Any person who violates a
12 final order of the board, or fails to register as a contractor as stipulated, and upon proper written
13 notification, is deemed guilty of a misdemeanor, and, upon conviction, shall be imprisoned for a
14 term not exceeding one year, or fined not more than ~~one thousand dollars (\$1,000)~~ [five thousand](#)
15 [dollars \(\\$5,000\)](#) for ~~each offense~~ [a first offense and not more than ten thousand dollars \(\\$10,000\)](#)
16 [for a second and/or subsequent offense\(s\) each.](#)

17 (b) A final order shall be considered delivered when served to a defendant [or designated](#)
18 [agent to accept service.](#) In addition to any sentence or fine imposed by the court under subsection
19 (a) of this section, the court may order a defendant to comply with any outstanding final order of
20 the board and/or to pay to the board any outstanding fine or fines previously imposed by the
21 board pursuant to section 5-65-10(c).

22 [\(c\) If a contractor is a repeat offender with violations of three \(3\) or more final orders of](#)
23 [the board with respect to three \(3\) separate contracts executed by three \(3\) separate](#)
24 [individuals/aggrieved parties and said violations are filed within a twenty-four \(24\) month period,](#)
25 [the violation shall be prosecuted as a felony and upon conviction the violator shall be subject to](#)
26 [imprisonment for a term not to exceed five \(5\) years or fined not more than ten thousand dollars](#)
27 [\(\\$10,000\).](#)

28 **5-65-24. Limited applicability of chapter to non-residential contractors.** -- (a)
29 Notwithstanding anything set forth in this chapter to the contrary, the provisions of the following
30 sections of this chapter shall not apply to any contractor who does not regularly in the course of
31 his or her or its business as a contractor engage in construction activities as contemplated under
32 this chapter on residential structures:

33 ~~(1) section 5-65-3(h)(1)(iii);~~

34 ~~(2)~~ (1) section 5-65-3(k);

- 1 ~~(3)~~ (2) section 5-65-4;
2 ~~(4)~~ ~~section 5-65-10(a)(6)~~;
3 ~~(5)~~ (3) section 5-65-11;
4 ~~(6)~~ (4) section 5-65-12; and
5 ~~(7)~~ (5) section 5-65-18.

6 (b) Notwithstanding anything set forth in this chapter to the contrary, the provisions of
7 the following sections of this chapter shall have only the limited applicability set forth below
8 respecting any contractor who does not regularly in the course of his or her or its business as a
9 contractor engage in construction activities as contemplated under this chapter on residential
10 structures:

11 (1) the provisions of section 5-65-3(a) concerning the joint and several liability of
12 applicable corporations or partnerships and their respective designees for the payment of the
13 registration fee as requested in this chapter and for violations of any provisions of this chapter
14 shall ~~not~~ apply; and

15 (2) the provisions of section 5-65-10(a)(4) concerning violation of a rule or order of the
16 board shall only apply to the extent that any such rule or order does not relate to or is not derived
17 from one of the inapplicable provisions referenced in this section.

18 SECTION 2. Chapter 5-65 of the General Laws entitled "Contractors' Registration" is
19 hereby amended by adding thereto the following sections:

20 **5-65-12.1. Alternate procedure for making claims against a contractor – Private**
21 **right of action.** – (a) Any person having a claim against a contractor of the type referred to in
22 section 5-65-11, may, in addition to any other common law action or administrative remedy,
23 bring an action under the rules of civil procedure in the superior court of the county in which the
24 complainant resides, or the county where the person against whom the civil complaint is filed
25 resides or has their principal place of business. A civil action filed in court under this section
26 may be instituted in lieu of or as a supplement to the contractors' registration board's
27 administrative proceedings and penalties only to the extent that the board's final orders are
28 insufficient to satisfy the claimant's damages.

29 (b) In an action filed under this section in which the plaintiff prevails the court may, in
30 addition to any judgment awarded to the plaintiff, require treble damages, reasonable attorneys'
31 fees and the costs of the action to be paid by the defendant.

32 **5-65-25. Violations -- Notice.** – The board shall provide, by way of the contractors'
33 registration website, by request, or by any other means approved by the board, a posting of all
34 final orders issued by the board, all proposed orders of the board, and any and all hearing notices

1 issued by the board. Provided, however, that all claims adjudicated in favor of the contractor
2 shall be removed from the website or publications as soon as practicable.

3 **5-65-26. Notice of final order – Service of process – Restitution for homeowner**
4 **contributions.** – The board is hereby authorized to assess against any contractor a monetary fine
5 up to but not to exceed one thousand dollars (\$1,000) for the costs of service of process for any
6 final orders of the board when the funds for said service of process were provided by an
7 aggrieved party under this chapter. The aggrieved party's claim shall be limited to the actual cost
8 of the service of process or one thousand dollars (\$1,000), whichever is less. The board shall
9 require proof of costs from the aggrieved party evidencing said expense for the service of process.

10 SECTION 3. Chapter 23-27.3 of the General Laws entitled "State Building Code" is
11 hereby amended by adding thereto the following section:

12 **23-27.3-113.3.2. Applications for work requiring registered workers.** – (a) Prior to the
13 approval of a permit issued to any contractor for work which state law requires that said
14 contractor be registered, the registered contractor shall show the building official a recognized
15 form of identification from the contractors' registration board and sign the permit. The local
16 official may verify the work is being done properly in the following manner:

17 (1) If the worker is not a registered person, then the local official may take whatever
18 remedial actions allowed by the code pertaining to the improper work found in violation. The
19 workers found to be doing work without a valid Rhode Island registration shall be reported to the
20 appropriate registration board for sanctions and penalties.

21 (b) The owner/occupant of single family dwelling shall be exempt from the registration
22 requirements of subsection (a), but must obtain a permit, be inspected by the local official in
23 accordance with the provisions of the code, and obtain approval of the work prior to use of the
24 completed alteration. Additionally, in order to be exempt from the registration requirements of
25 subsection (a), the owner/occupant must undertake the work required to be licensed without the
26 assistance of others who are compensated.

27 SECTION 4. This act shall take effect upon passage.

=====
LC03492/SUB A/2
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO BUSINESSES AND PROFESSIONS – CONTRACTORS' REGISTRATION

1 This act would amend the contractors' registration chapter by increasing fines, providing
2 for continuing education for contractors, require certain contractors to carry a surety bond, and
3 establish a residential contractor guaranty fund for homeowners aggrieved by contractors.

4 This act would take effect upon passage.

=====
LC03492/SUB A/
=====