

2012 -- S 2341 AS AMENDED

=====
LC01279
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

—————
A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- CONTRACTORS' REGISTRATION
BOARD

Introduced By: Senators McCaffrey, Goodwin, Jabour, Doyle, and Miller

Date Introduced: February 07, 2012

Referred To: Senate Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 5-65-10 of the General Laws in Chapter 5-65 entitled "Contractors'
2 Registration and Licensing Board" is hereby amended to read as follows:

3 **5-65-10. Grounds for discipline -- Injunctions.** -- (a) The board or commission may
4 revoke, suspend, or refuse to issue, reinstate, or reissue a certificate of registration if the board or
5 commission determines after notice and opportunity for a hearing:

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

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

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

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

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

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

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

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

18 (9) That a registrant has engaged in repeated acts in violation of this chapter and the

1 board's rules and regulations inclusive of substandard workmanship and any misuse of
2 registration.

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

7 (11) That the registrant breached a contract.

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

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

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

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

15 (16) That the registrant has failed to pay a fine or comply with any order issued by the
16 board.

17 (17) That the registrant has failed to obtain or maintain the required continuing
18 education/units required by the board, or failed to sign the affidavit required by the board for
19 registration or renewal.

20 (18) When a violation for hiring a non-registered contractor, working as a non-registered
21 contractor, or not maintaining the insurance required is issued, the registration may become
22 invalidated until the violation is resolved or hearing is requested on this offense.

23 (19) That the registrant has violated any of the provisions of chapters 25-3, 28-3, 28-12,
24 28-14, 28-36, 28-50, and/or 37-13. A finding that the registrant has violated any of those chapters
25 shall not be grounds for imposition of a monetary penalty under subsection (c) below.

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

32 (c) (1) For each first violation of a particular section of this chapter or any rule or
33 regulation promulgated by the board, a fine not to exceed five thousand dollars (\$5,000) may be
34 imposed after a hearing by the board. Provided, further, that the board at its discretion may, after

1 a hearing, impose an additional fine up to but not to exceed the face value of the contract or the
2 actual damages caused by the contractor, whichever shall be greater. Where the claim is for actual
3 damages the board shall require proof satisfactory to the board indicating said damages. Where
4 corrective work is completed as ordered by the board, the fine assessed may be reduced as
5 determined by the board. Fines and decisions on claims or violations inclusive of monetary
6 awards can be imposed against registered as well as contractors required to be registered by the
7 board.

8 (2) For each subsequent violation of a particular subsection of this chapter or of a rule or
9 regulation promulgated by the board, a fine not to exceed ten thousand dollars (\$10,000) may be
10 imposed after a hearing by the board. All fines collected by the board shall be deposited as
11 general revenues until June 30, 2008 to be used to enforce the provisions of this chapter.
12 Beginning July 1, 2008, all fines collected by the board shall be deposited into a restricted receipt
13 account to be used to enforce the provisions of this chapter.

14 (3) For the first violation of section 5-65-3, only for non-registered contractors, a fine of
15 up to five thousand dollars (\$5,000) for a first offense and up to ten thousand dollars (\$10,000)
16 for each subsequent offense shall be imposed.

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

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

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

27 (g) A registrant may petition the board to partially or completely expunge his or her
28 record provided that notice of said expungment proceedings has been provided to the claimant
29 who was the subject of the violation. For purposes of this subsection "notice" shall consist of a
30 mailing to the last known address of the claimant and need not be actual notice.

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

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

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

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

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

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

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

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

16 (l) No person shall register as a contractor with the contractors' registration board for the
17 purpose of deceiving or circumventing the registration process by enabling a person whose
18 registration has been suspended or revoked to conduct business. Provided, further, that any person
19 who, in good faith relies on the board or the contractor's registration website for information
20 regarding registration status of another shall be exempt from violations pursuant to this section if
21 the information is not correct. Violators of this section shall be jointly and individually liable for
22 damages resulting from their activities as contractors pursuant to this chapter. Violations of this
23 subsection may result in a revocation of registration and/or fines not to exceed ten thousand
24 dollars (\$10,000) and/or up to one year in jail. Furthermore, the director shall require that all
25 applicants for registration shall swear by way of affidavit that they are aware of this provision and
26 its implications.

27 (m) Upon receipt of notice of a final determination, after the exhaustion of all appeals, by
28 the department of labor and training, consent agreement, or court order that a registered
29 contractor violated any of the provisions of chapters 25-3, 28-3, 28-12, 28-14, 28-36, 28-50,
30 and/or 37- 13 and owes any wages, benefits or other sums arising out of such violation, the board
31 shall immediately suspend the contractor's registration of such contractor in accordance with this
32 subsection. The suspension shall continue until all wages, benefits, or other sums owed have been
33 paid or the contractor has entered into a written, binding agreement to pay the same acceptable to
34 the department of labor and training and is not in default in payment under such agreement. If the

1 contractor fails to remain current in payment under any such agreement, the department of labor
2 and training shall notify the contractors' registration board and the suspension shall be imposed or
3 reinstated as the case may be. The foregoing sanction is mandatory, but shall not be grounds for
4 imposition of a monetary penalty under subsection (c) above.

5 (n) When the registration of a contractor has been revoked or suspended, neither the
6 contractor nor any successor entity or sole proprietorship that: (1) Has one or more of the same
7 principals or officers as the partnership, limited partnership, limited liability partnership, joint
8 venture, limited liability company, corporation, or sole proprietorship as the subject contractor;
9 and (2) Is engaged in the same or equivalent trade or activity shall be qualified to register or
10 retain a registration as a contractor under this chapter, unless and until the board shall determine
11 that the basis of the revocation or suspension has been satisfied or removed and that the registrant
12 or applicant otherwise satisfies the requirements for registration under this chapter.
13 Notwithstanding the foregoing, a natural person may obtain relief from the application and
14 enforcement of this subsection as to him or her, if he or she can establish that he or she was not
15 responsible for, and did not acquiesce to the misconduct which is the basis of the revocation,
16 suspension or denial of registration.

17 SECTION 2. This act shall take effect upon passage.

=====
LC01279
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO BUSINESSES AND PROFESSIONS -- CONTRACTORS' REGISTRATION
BOARD

- 1 This act would expand the powers of the contractors' registration and licensing board to
- 2 discipline contractors who violate their rules.
- 3 This act would take effect upon passage.

=====
LC01279
=====