

2018 -- S 2706

LC005027

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- CONTRACTORS' REGISTRATION
AND LICENSING BOARD

Introduced By: Senators Coyne, Seveney, DiPalma, Calkin, and Crowley

Date Introduced: March 20, 2018

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 5-65-3 of the General Laws in Chapter 5-65 entitled "Contractors'
2 Registration and Licensing Board" is hereby amended to read as follows:

3 **5-65-3. Registration for work on a structure required of contractor -- Issuance of**
4 **building permits to unregistered or unlicensed contractors prohibited -- Evidence of activity**
5 **as a contractor -- Duties of contractors.**

6 (a) A person shall not undertake, offer to undertake, or submit a bid to do work as a
7 contractor on a structure or arrange to have work done unless that person has a current, valid
8 certificate of registration for all construction work issued by the board. A partnership,
9 corporation, or joint venture may do the work; offer to undertake the work; or submit a bid to do
10 the work only if that partnership, corporation, or joint venture is registered for the work. In the
11 case of registration by a corporation or partnership, an individual shall be designated to be
12 responsible for the corporation's or partnership's work. The corporation or partnership and its
13 designee shall be jointly and severally liable for the payment of the registration fee, as requested
14 in this chapter, and for violations of any provisions of this chapter. Disciplinary action taken on a
15 registration held by a corporation, partnership, or sole proprietor may affect other registrations
16 held by the same corporation, partnership, or sole proprietorship, and may preclude future
17 registration by the principal of that business entity.

18 (b) A registered partnership or corporation shall notify the board in writing immediately

1 upon any change in partners or corporate officers.

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

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

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

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

30 (g) The provisions of this chapter shall be exclusive and no city or town shall require or
31 shall issue any registrations or licenses nor charge any fee for the regulatory registration of any
32 contractor registered with the board. Nothing in this subsection shall limit or abridge the authority
33 of any city or town to license and levy and collect a general and nondiscriminatory license fee
34 levied upon all businesses, or to levy a tax based upon business conducted by any firm within the

1 city or town's jurisdiction, if permitted under the laws of the state.

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

4 (i) Names and addresses; and

5 (ii) Registration numbers or other license numbers.

6 (2) The list referred to in subsection (h)(1) of this section shall be delivered to the board
7 within twenty-four (24) hours after a request is made during reasonable working hours, or a fine
8 of twenty-five dollars (\$25.00) may be imposed for each offense.

9 (i) The following subcontractors who are not employees of a registered contractor must
10 obtain a registration certificate prior to conducting any work: (1) Carpenters, including finish
11 carpenters and framers; (2) Siding installers; (3) Roofers; (4) Foundation installers, including
12 concrete installers and form installers; (5) Drywall installers; (6) Plasterers; (7) Insulation
13 installers; (8) Ceramic tile installers; (9) Floor covering installers; (10) Swimming pool installers,
14 both above ground and in ground; (11) Masons, including chimney installers, fireplace installers,
15 and general masonry erectors. This list is not all inclusive and shall not be limited to the above-
16 referenced contractors. No subcontractor licensed by another in-state agency pursuant to § 5-65-2
17 shall be required to register, provided that said work is performed under the purview of that
18 license.

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

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

25 (l) The registration number of each contractor shall appear in any advertising by that
26 contractor. Advertising in any form by an unregistered contractor shall be prohibited, including
27 alphabetical or classified directory listings, vehicles, business cards, and all other forms of
28 advertisements. The violations could result in a penalty being assessed by the board per
29 administrative procedures established.

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

32 (ii) Use of the word "license" in any form of advertising when only registered may
33 subject the registrant or those required to be registered to a fine of one hundred dollars (\$100) for
34 each offense at the discretion of the board.

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

4 (n) The board may assess an interest penalty of twelve percent (12%) annually when a
5 monetary award is ordered by the board.

6 (o) All work performed, including labor and materials, in excess of one thousand dollars
7 (\$1,000) shall be accompanied by a contract in writing. Contracts required pursuant to this
8 subsection shall include a location on or near the signature line location on or in which the parties
9 to the contract shall initial to evidence the receipt of certain consumer education materials or
10 information approved and provided by the board to the contractor. Said educational materials
11 and/or information shall include, but not be limited to, the following notice and shall be provided
12 by the contractor to the homeowner:

13 NOTICE OF POSSIBLE MECHANIC'S LIEN

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

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

22 Failure to adhere to the provisions of this subsection may result in a one thousand dollar
23 (\$1,000) fine against the contractor and shall not affect the right of any other person performing
24 work or furnishing materials of claiming a lien pursuant to chapter 28 of title 34. However, such
25 person failing to provide such notice shall indemnify and hold harmless any owner, lessee or
26 tenant, or owner of less than the fee simple from any payment or costs incurred on account of any
27 liens claims by those not in privity with them, unless such owner, lessee or tenant, or owner of
28 less than the fee simple shall not have paid such person.

29 (p) Contracts entered into must contain notice of right of rescission as stipulated in all
30 pertinent Rhode Island consumer protection laws and/or § 5-65-27 if applicable.

31 (q) The contractor must stipulate whether or not all the proper insurances are in effect for
32 each job contracted.

33 (r) Contractors who are in compliance with the provisions of this subsection shall be
34 exempt from the requirements of § 34-28-4.1.

1 (s) In addition to the requirements of this chapter, contractors engaged in well drilling
2 activities shall also be subject to regulations pertaining to licensing and registration promulgated
3 by the contractors' registration and licensing board pursuant to chapter 65.2 of this title and § 46-
4 13.2-4.

5 [\(t\) Contracts entered into pursuant to this chapter shall not contain any provision which](#)
6 [would limit a consumers rights to initiate legal proceedings against the contractor for breach of](#)
7 [contract or any other allowable claim under § 5-65-11.](#)

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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1 This act would prohibit any contractual clause in a contract for home repairs which would
2 limit the homeowners ability to initiate legal proceedings against the contractor for breach of
3 contract.

4 This act would take effect upon passage.

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