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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2007

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- CONTRACTORS' REGISTRATION

Introduced By: Senators Tassoni, Jabour, Connors, and Sosnowski

Date Introduced: February 15, 2007

Referred To: Senate Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 5-65-1, 5-65-2, 5-65-3, 5-65-4, 5-65-5, 5-65-6, 5-65-7, 5-65-8, 5-
2 65-9, 5-65-10, 5-65-11, 5-65-12, 5-65-13, 5-65-18, 5-65-19 and 5-65-22 of the General Laws in
3 Chapter 5-65 entitled "Contractors' Registration" are hereby amended to read as follows:

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

5 (1) "Actual losses" means amounts payable for the cost of repair, replacement,
6 completion or performance under the terms of a residential contracting agreement with respect to
7 which a claim is made.

8 ~~(1)~~ (2) "Board" means the contractors' registration board established pursuant to the
9 provisions of Rhode Island general laws section 5-65-14.

10 (3) "Claimant" means an owner and resident of a residential building who has entered
11 into a construction contract with a contractor to carry out construction work on any structure, and
12 who is making a claim against the contractor for failure of performance under the contract.

13 ~~(2)~~ (4) "Commission" means the building code commission supportive of the contractors'
14 registration board.

15 (5) "Contract" means a written agreement contained in one or more documents for the
16 performance of certain residential contracting work, including all labor, goods and services set
17 forth within the agreement.

18 ~~(3)~~ ~~(4)~~ (6)(i) "Contractor" means a person who, in the pursuit of an independent business,
19 undertakes or offers to undertake or submits a bid, or for compensation and with or without the

1 intent to sell the structure arranges to construct, alter, repair, improve, move over public
2 highways, roads or streets or demolish a structure or to perform any work in connection with the
3 construction, alteration, repair, improvement, moving over public highways, roads or streets or
4 demolition of a structure, and the appurtenances thereto. "Contractor" includes, but is not limited
5 to, any person who purchases or owns property and constructs or for compensation arranges for
6 the construction of one or more structures.

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

9 ~~(4)~~ (7) "Dwelling unit" means a single unit providing complete independent living
10 facilities for one or more persons, including permanent provisions for living, sleeping, eating,
11 cooking, and sanitation.

12 (8) "Fund" means the residential contractors' guaranty fund.

13 (9) "Fund administrator" means the administrator of the residential contractors' guaranty
14 fund, who shall be the executive director of the board, or his or her designee.

15 ~~(5)~~ (10) "Hearing officer" means a person designated by the executive director, with the
16 approval of the director of the department of administration to hear contested claims or cases,
17 contested enforcement proceedings, and contested administrative fines, in accordance with the
18 Administrative Procedures Act, chapter 35 of title 42.

19 (11) "Owner" means any homeowner of a pre-existing owner-occupied building or tenant
20 thereof, who orders, contracts for, or purchases the services of a contractor.

21 ~~(6)~~ (12) "Staff" means the executive director for the contractors' registration board, and
22 any other staff necessary to carry out the powers, functions and duties of the board including
23 inspectors, hearing officers and other supportive staff.

24 ~~(7)~~ (13) "State" means the state of Rhode Island.

25 ~~(8)~~ (14) "Structure" means any building containing one or more residences and their
26 appurtenances. The board's dispute resolution process shall apply only to residential structures
27 containing dwelling units as defined in the state building code or residential portions of other
28 types of buildings without regard to how many units any structure may contain. The board retains
29 jurisdiction and may conduct hearings regarding violations against all contractors required to be
30 registered.

31 ~~(9)~~ (15) "Substantially" means any violation, which affects the health, safety, and
32 welfare of the general public.

33 **5-65-2. Applications.** -- The following persons shall be exempt from ~~registration~~
34 licensure under this chapter:

1 (1) A person who is constructing, altering, improving, or repairing his or her own
2 personal property.

3 (2) A person who is constructing, altering, improving, or repairing a structure located
4 within the boundaries of any site or reservation under the jurisdiction of the federal government.

5 (3) A person who furnishes materials, supplies, equipment, or furnishes products and
6 does not fabricate them into, or consume them, in the performance of the work of a contractor. If
7 the person wants to file a claim pursuant to this chapter they must be ~~registered~~ licensed pursuant
8 to this chapter.

9 (4) A person working on one structure or project, under one or more contracts when the
10 price of all of that person's contracts for labor, materials, and all other items is less than five
11 hundred dollars (\$500) and the work is of a casual, minor, or inconsequential nature. This
12 subsection does not apply to a person who advertises or puts out any sign or card or other device,
13 which might indicate to the public that the person is a contractor.

14 (5) This section does not apply to a person who constructs or for compensation with the
15 intent to sell the structure, or who arranges to have constructed a structure to be sold before, upon
16 or after completion. It shall be prima facie evidence that there was intent to offer the structure for
17 sale if the person who constructed the structure or arranged to have the structure constructed does
18 not occupy the structure for one calendar year after completion.

19 (6) A person performing work on a single dwelling unit property that person owns,
20 whether occupied by that person or not, or a person performing work on that person's residence,
21 whether or not that person owns the residence. This subdivision does not apply to a person
22 performing work on a structure owned by that person if the work is performed, in the pursuit of
23 an independent business, with the intent of offering the structure for sale before, upon, or after
24 completion.

25 (7) A person who performs work subject to this chapter as an employee of a contractor.

26 (8) A manufacturer of a mobile home constructed under standards established by the
27 federal government.

28 (9) A person involved in the movement of:

29 (i) Modular buildings or structures other than mobile homes not in excess of fourteen
30 (14) feet in width.

31 (ii) Structures not in excess of sixteen (16) feet in width when these structures are being
32 moved by their owner if the owner is not a contractor required to be ~~registered~~ licensed under this
33 chapter.

34 (10) Any person or business entity licensed by the state employing licensed trades

1 persons as defined by chapters 6, 20, and 56 of this title, and 26 and 27 of title 28 and working
2 within the purview of the license issued by the governing agency shall be exempt from all the
3 provisions of this chapter except section 5-65-7, requiring insurance. A valid certificate of
4 insurance shall be required to be maintained by the licensing agency during the terms of the
5 issuance date of the license as a condition for a valid license. Failure of the licensee to maintain
6 this insurance shall result in loss of license pursuant to requirements of statutes governing the
7 licensing authority.

8 ~~5-65-3. Registration for work on a structure required of contractor -- Issuance of~~
9 ~~building permits to unregistered or unlicensed contractors prohibited -- Evidence of activity~~
10 ~~as a contractor -- Duties of contractors.~~ Licensure for work on a structure required of
11 contractor -- Issuance of building permits to unlicensed contractors prohibited --

12 Evidence of activity as a contractor -- Duties of contractors. -- (a) A person shall not
13 undertake, offer to undertake, or submit a bid to do work as a contractor on a structure or arrange
14 to have work done unless that person has a current, valid ~~certificate of registration~~ license for all
15 construction work issued by the board. A partnership, corporation, or ~~joint venture~~ licensed may
16 do the work, offer to undertake the work, or submit a bid to do the work only if that partnership,
17 corporation, or joint venture is registered for the work. In the case of ~~registration~~ licensure by a
18 corporation or partnership, an individual shall be designated to be responsible for the
19 corporation's or partnership's work. The corporation or partnership and its designee shall be
20 jointly and severally liable for the payment of the ~~registration~~ license fee, as requested in this
21 chapter, and for violations of any provisions of this chapter. Disciplinary action taken on a
22 ~~registration~~ license held by a corporation, partnership, or sole proprietor may affect other
23 ~~registrations~~ licenses held by the same corporation, partnership, or sole proprietorship, and may
24 preclude future ~~registration~~ licensure by the principal of that business entity.

25 (b) A ~~registered~~ licensed partnership or corporation shall notify the board in writing
26 immediately upon any change in partners or corporate officers.

27 (c) A city, town, or the state shall not issue a building permit to anyone required to be
28 ~~registered~~ licensed under this chapter who does not have a current, valid ~~certificate of registration~~
29 ~~identification card or valid~~ license which shall be presented at the time of issuance of a permit
30 and shall become a condition of a valid permit. Each city, town, or the state which requires the
31 issuance of a permit as a condition precedent to construction, alteration, improvement,
32 demolition, movement or repair of any building or structure or the appurtenance to the structure
33 shall also require that each applicant for the permit file as a condition to issuing the permit a
34 written affidavit subject to the penalties of perjury, subscribed by the applicant, that the applicant

1 is ~~registered~~ licensed under the provisions of this chapter, giving the number of the ~~registration~~
2 license and stating that the ~~registration~~ license is in full force and effect, or, if the applicant is
3 exempt from the provisions of this chapter, listing the basis for the exemption. The city, town, or
4 the state shall list the contractor's ~~registration~~ license number on the permit obtained by that
5 contractor, and if a homeowner is issued a permit, the building inspector or official must ascertain
6 ~~registration~~ license numbers of each contractor on the premises and shall inform the ~~registration~~
7 licensing board of any ~~non-registered~~ unlicensed contractors performing work at the site.

8 (d) Every city and town which requires the issuance of a business license as a condition
9 precedent to engaging, within the city or town, in a business which is subject to regulation under
10 this chapter, shall require that each licensee and each applicant for issuance or renewal of the
11 license file, or has on file, with the city or town a signed statement that the licensee or applicant is
12 ~~registered~~ licensed under the provisions of this chapter and stating that the ~~registration~~ license is
13 in full force and effect.

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

19 (f) ~~Registration~~ Licensure under this chapter shall be prima facie evidence that the
20 ~~registrant~~ licensee conducts a separate, independent business.

21 (g) The provisions of this chapter shall be exclusive and no city or town shall require or
22 shall issue any ~~registrations or~~ licenses nor charges any fee for the regulatory registration of any
23 contractor ~~registered~~ licensed with the board. Nothing in this subsection shall limit or abridge the
24 authority of any city or town to license and levy and collect a general and nondiscriminatory
25 license fee levied upon all businesses, or to levy a tax based upon business conducted by any firm
26 within the city or town's jurisdiction, if permitted under the laws of the state.

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

- 30 (i) Names and addresses.
- 31 (ii) ~~Registration numbers or other license~~ License numbers.
- 32 (iii) Contracts entered into must contain notice of right of rescission as stipulated in all
33 pertinent Rhode Island consumer protection laws.
- 34 (iv) The contractor must stipulate whether or not all the proper insurances are in effect

1 for each job contracted.

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

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

15 (j) A contractor including, but not limited to, a general contractor, shall not hire any
16 subcontractor or other contractor to work on a structure unless the contractor is ~~registered~~
17 licensure under this chapter or exempt from ~~registration~~ licensure under the provisions of section
18 5-65-2.

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

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

27 ~~(1)~~ (1) The board may publish, revoke or suspend ~~registrations~~ licenses and the date the
28 ~~registration~~ license was suspended or revoked on a quarterly basis.

29 ~~(2)~~ (2) Use of the word "license" in any form of advertising when only registered may
30 subject the registrant or those required to be registered to a fine of one hundred dollars (\$100) for
31 each offense at the discretion of the board. Provided, however, that fines issued for a violation of
32 this subsection shall only be issued as a secondary offense actionable only in connection with a
33 final order issued by the board for violations of other sections of this chapter.

34 (m) The contractor must see that permits required by the state building code are secured

1 on behalf of the owner prior to commencing the work involved. The contractor's ~~registration~~
2 license number must be affixed to the permit as required by the state building code.

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

5 (o) Effective October 1, 2006, all work performed, including labor and materials, in
6 excess of one thousand dollars (\$1,000) shall be accompanied by a contract in writing. Contracts
7 required pursuant to this subsection shall include a location on or near the signature line location
8 on or in which the parties to the contract shall initial to evidence the receipt of certain consumer
9 education materials or information approved and provided by the board to the contractor. Said
10 educational materials and/or information shall include, but not be limited to, the following notice
11 and shall be provided by the contractor to the homeowner: NOTICE OF POSSIBLE
12 MECHANIC'S LIEN To: Insert name of owner, lessee or tenant, or owner of less than the simple
13 fee. The undersigned is about to perform work and/or furnish materials for the construction,
14 erection, alterations or repair upon the land at (INSERT ADDRESS) under contract with you.
15 This is a notice that the undersigned and any other persons who provide labor and materials for
16 the improvement under contract with the undersigned may file a mechanic's lien upon the land in
17 the event of nonpayment to them. It is your responsibility to assure yourself that those other
18 persons under contract with the undersigned receive payment for their work performed and
19 materials furnished for the construction, erection, alteration or repair upon the land. Failure to
20 adhere to the provisions of this subsection may result in a one thousand dollars (\$1,000) fine
21 against the contractor.

22 ~~5-65-4. Registration required to obtain judicial or administrative remedy~~
23 Exception License required to obtain judicial or administrative remedy -- Exception. -- (a)

24 A contractor may not file a lien, file a claim with the board, or bring or maintain in any court of
25 this state a suit or action for compensation for the performance of any work on any structure or
26 for the breach of any contract for work on any structure which is subject to this chapter, unless
27 the contractor was:

28 (1) ~~Registered~~ Licensed under this chapter at the time the contractor bid or entered into
29 the contract for performance of the work unless the bid or contract predated ~~July 1, 1990~~ January
30 1, 2008; and

31 (i) If the bid or contract predated January 1, 2008, the contractor must have been
32 registered under this chapter at the time the contractor bid or entered into the contract for
33 performance of the work unless the bid or contract predated July 1, 1990.

34 (2) ~~Registered~~ Licensed continuously while performing the work for which

1 compensation is sought.

2 (b) A court may choose not to apply this section if the court finds that to do so would
3 result in a substantial injustice to the ~~unregistered~~ unlicensed contractor.

4 **5-65-5. Registered-application License application.** -- (a) A person who wishes to
5 ~~register~~ be licensed as a contractor shall submit an application, under oath, upon a form
6 prescribed by the board. The application shall include, but shall not be limited to the following
7 information regarding the applicant:

8 (1) A statement that the applicant desires the issuance of a license under the terms of this
9 chapter.

10 (2) The street address or other physical location of the applicant's place of business.

11 (3) The street address or other physical location in this state and, if different, the mailing
12 address for service of process upon the applicant.

13 ~~(4)~~ (4) Workers' compensation insurance account number, or company name if a number
14 has not yet been obtained, if applicable;

15 ~~(5)~~ (5) Unemployment insurance account number if applicable;

16 ~~(6)~~ (6) State withholding tax account number if applicable;

17 ~~(7)~~ (7) Federal employer identification number, if applicable, or if self-employed and
18 participating in a retirement plan;

19 ~~(8)~~ (8) The individual(s) name and business address and residential address of:

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

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

22 (iii) The corporation officers and a copy of corporate papers filed with the Rhode Island
23 secretary of state's office, if the applicant is a corporation;

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

25 ~~(9)~~ (9) A signed affidavit subject to the penalties of perjury of whether or not the
26 applicant has previously applied for ~~registration~~ licensure, or is or was an officer, partner, or
27 venturer of an applicant who previously applied for ~~registration~~ licensure and if so, the name of
28 the corporation, partnership, or venture.

29 ~~(10)~~ (10) Valid insurance certificate for the type of work being performed.

30 (b) A person may be prohibited from ~~registering~~ licensure or renewing ~~registration~~ their
31 license as a contractor under the provisions of this chapter or his or her ~~registration~~ license may
32 be revoked or suspended if he or she has any unsatisfied or outstanding judgments from
33 arbitration, bankruptcy, courts and/or administrative agency against him or her relating to their
34 work as a contractor, and provided, further, that an affidavit subject to the penalties of perjury

1 shall be provided to the board attesting to the information herein.

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

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

5 (11) Any information requested by the board to ascertain the background, financial
6 responsibility, experience, knowledge and qualifications of the applicant.

7 (e) The application must be:

8 (1) Made on a form prescribed by the board in accordance with the rules and regulation
9 adopted by the board;

10 (2) Accompanied by the fees, application and guaranty fund, as provided in section 5-65-
11 9.

12 **5-65-6. Contractor to notify of address change -- Effect of mail to last known**
13 **address.** -- It is the duty of a contractor to notify the board in writing of any change of address
14 while ~~registered~~ licensed and for one year following the date the contractor's ~~registration~~ licensed
15 expires or becomes inactive. The contractor shall notify the board in writing within ten (10) days
16 of the date upon which the change of address occurs. Any proposed or final order or notice of
17 hearing directed by the board to the last known address of record shall be considered delivered
18 when deposited in the United States mail and/or sent registered or certified or post office receipt
19 secured. Any other communication directed by the board to the last known address of record shall
20 be considered delivered when deposited in the United States mail, regular mail.

21 **5-65-7. Insurance required of contractors.** -- (a) Throughout the period of ~~registration~~
22 licensure, the contractor shall have in effect public liability and property damage insurance
23 covering the work of that contractor which shall be subject to this chapter in not less than the
24 following amount: five hundred thousand dollars (\$500,000) combined single limit, bodily injury
25 and property damage.

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

29 (c) The contractor shall provide satisfactory evidence to the board at the time of
30 ~~registration~~ licensure and renewal that the insurance required by subsection (a) of this section has
31 been procured and is in effect. Failure to maintain insurance shall invalidate ~~registration~~ licensure
32 and may result in a fine to the ~~registrant~~ licensee.

33 **5-65-8. Term of registration -- Renewal -- Registration identification card.** -- (a) A
34 ~~certificate of registration~~ license shall be valid for two (2) years from the date of issuance unless

1 the ~~registration~~ license is revoked or suspended as described in section 5-65-10. It may be
2 renewed by the same procedure provided for an original ~~registration~~ licensure upon application
3 and furnishing of any additional supplemental information that the board may require by rule.

4 (b) The board shall issue a pocket-card ~~certificate of registration~~ license to a contractor
5 ~~registered~~ licensed under this chapter.

6 (c) The board may vary the dates of ~~registration~~ license renewal by giving to the
7 ~~registrant~~ licensee written notice of the renewal date assigned and by making appropriate
8 adjustments in the renewal fee.

9 (d) The presentation of the ~~registration or~~ license ~~identification~~ card shall be mandatory
10 at the time of permit application.

11 (e) If a ~~registrant~~ licensee files in bankruptcy court, the board must be notified in writing
12 by the ~~registrant~~ licensee and kept informed of the status of the case until dismissed, discharged
13 or resolved in court.

14 **5-65-9. Registration fee License fee.** -- (a) Each applicant shall pay to the board:

15 (1) For original ~~registration~~ licensure or renewal of ~~registration~~ license, a fee ~~of one~~
16 ~~hundred twenty dollars (\$120)~~ fixed in accordance with the rules and regulations adopted by the
17 board.

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

20 (b) All fees and fines collected by the board shall be deposited as general revenues to
21 support the activities set forth in this chapter, except as provided for in section 5-65-27.

22 (c) Each year, the executive director shall prepare a proposed budget to support the
23 programs approved by the board. The proposed budget shall be submitted to the board for its
24 review. A final budget request shall be submitted to the legislature as part of the capital projects
25 and property management annual request.

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

28 **5-65-10. Grounds for discipline -- Injunctions.** -- (a) The board or commission may
29 revoke, suspend, or refuse to issue, reinstate, or reissue a ~~certificate of registration~~ licensee if the
30 board or commission determines after notice and opportunity for a hearing:

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

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

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

- 1 (4) Has violated a rule or order of the board.
- 2 (5) That the ~~registrant~~ licensee has knowingly assisted an ~~unregistered~~ unlicensed person
3 to act in violation of this chapter.
- 4 (6) That a lien was filed on a structure under chapter 28 of title 34 because the ~~registrant~~
5 licensee or applicant wrongfully failed to perform a contractual duty to pay money to the person
6 claiming the lien.
- 7 (7) That the ~~registrant~~ licensee has substantially violated state or local building codes.
- 8 (8) That the ~~registrant~~ licensee has made false or fraudulent statements on his or her
9 application.
- 10 (9) That a ~~registrant~~ licensee has engaged in repeated acts in violation of this chapter and
11 the board's rules and regulations inclusive of substandard workmanship and any misuse of
12 ~~registration~~ license.
- 13 (10) The board may take disciplinary action against a contractor who performed work or
14 arranged to perform, while the ~~registration~~ license was suspended, invalidated or revoked.
15 Deposits received by a contractor and ordered returned are not considered a monetary award
16 when no services or supplies have been received.
- 17 (11) That the ~~registrant~~ licensee breached a contract.
- 18 (12) That the ~~registrant~~ licensee performed negligent and/or improper work.
- 19 (13) That the ~~registrant~~ licensee has advertised with a license number instead of using a
20 ~~registration~~ license number.
- 21 (14) That the ~~registrant~~ licensee has failed to complete a project(s) for construction or a
22 willful failure to comply with the terms of a contract or written warranty.
- 23 (15) That the ~~registrant~~ licensee has misrepresented his ~~registration~~ license status as valid
24 when said ~~registration~~ license is suspended, revoked, invalidated, inactive or ~~unregistered~~ not
25 licensed as required by the board.
- 26 (16) That the ~~registrant~~ licensee has failed to pay a fine or respond to any order issued by
27 the board.
- 28 (b) In addition to all other remedies, when it appears to the board that a person has
29 engaged in, or is engaging in, any act, practice or transaction which violates the provisions of this
30 chapter, the board may direct the attorney general to apply to the court for an injunction
31 restraining the person from violating the provisions of this chapter. An injunction shall not be
32 issued for failure to maintain the list provided for in section 5-65-3(h) unless the court determines
33 that the failure is intentional.
- 34 (c) (1) The board at its discretion may, after a hearing, impose a fine up to but not to

1 exceed the face value of the contract or the actual damages caused by the contractor, whichever
2 shall be greater. Where the claim is for actual damages the board shall require proof satisfactory
3 to the board indicating said damages. Where corrective work is completed as ordered by the
4 board, the fine assessed may be reduced as determined by the board. Fines and decisions on
5 claims or violations can be imposed against ~~registered~~ licensed contractors as well as contractors
6 required to be ~~registered~~ licensed by the board.

7 (2) For each subsequent violation of a particular subsection of this chapter or of a rule or
8 regulation promulgated by the board, a fine not to exceed ten thousand dollars (\$10,000) may be
9 imposed after a hearing by the board. All fines collected by the board shall be deposited as
10 general revenues to be used to enforce the provisions of this chapter.

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

14 (d) The hearing officer, upon rendering a conclusion may require the ~~registrant~~ licensee,
15 in lieu of a fine, to attend continuing education courses as appropriate. Failure to adhere to the
16 requirement could result in immediate revocation of ~~registration~~ license.

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

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

24 (g) A ~~registrant~~ licensee may petition the board to partially or completely expunge his or
25 her record.

26 (h) Any person or contractor, ~~registered~~ licensed or not, who uses another contractor's
27 ~~registration~~ license, contractor's ~~registration~~ license identification card, or allows another person
28 to use their contractor's ~~registration~~ license fraudulently in any way, will be subject to a fine not
29 exceeding ten thousand dollars (\$10,000).

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

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

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

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

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

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

8 (4) Suspend, revoke or refuse to issue, reinstate or reissue a ~~certificate of registration~~
9 license to any ~~registrant~~ licensee who has contracted, advertised, offered to contract or submitted
10 a bid when the contractor's ~~registration~~ license is suspended, revoked, invalidated or inactive or
11 ~~unregistered~~ not licensed as required by the board.

12 **5-65-11. Types of allowable claims.** -- The board shall only accept and make
13 determinations of the following types of claims for damages against contractors ~~registered~~
14 licensed or required to be ~~registered~~ licensed. This section shall apply to the following types of
15 claims:

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

18 (i) Negligent work.

19 (ii) Improper work.

20 (iii) Breach of contract.

21 (iv) Contract disputes.

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

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

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

32 (3) Claims against a ~~registered~~ licensed contractor by a ~~registered~~ licensed contractor for
33 the following in performing any work subject to this chapter:

34 (i) Negligent work;

- 1 (ii) Improper work;
2 (iii) Breach of contract;
3 (iv) Furnishing labor or material or renting or supplying equipment to a contractor; or
4 (v) Contract dispute.

5 (4) Claims by an employee of a ~~registered~~ licensed contractor.

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

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

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

13 **-- Disciplinary action.** -- (a) Any person having a claim against a contractor of the type referred
14 to in section 5-65-11, may file with the board a statement of the claim in any form and with any
15 fee that the board prescribes. The filing fee may be reimbursed to the claimant by the respondent,
16 if the respondent is found to be at fault. Claims resolved prior to issuance of an order may be
17 removed from the contractor's registration board record pursuant to administrative regulations.

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

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

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

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

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

32 (3) The board determines that the contractor against whom the claim is filed is capable of
33 complying with the recommendations made by the board relative to the claim, but the claimant
34 does not permit the contractor to comply with the recommendations. The board may refuse to

1 accept further process of a claim under this paragraph only if the contractor was ~~registered~~
2 licensed at the time the work was first performed and is ~~registered~~ licensed at the time the board
3 makes its recommendations; or

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

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

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

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

14 (3) Regardless of whether the claim involves a new or existing structure, if the owner
15 files the claim because the contractor failed to begin the work pursuant to a written contract, the
16 board must receive the claim not later than one year after the date the parties entered into a
17 written contract.

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

21 (5) If a ~~registered~~ licensed general contractor files the claim against a ~~registered~~ licensed
22 subcontractor, because the subcontractor failed to substantially complete the work, the board must
23 receive the claim not later than one year after the date the subcontractor ceased to work on the
24 structure.

25 (6) If a material or equipment supplier, an employee, or a ~~registered~~ licensed
26 subcontractor files the claim, the board must receive the claim not later than one year after the
27 date the ~~registrant~~ licensee incurred the indebtedness.

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

30 (d) Upon acceptance of the statement of claim, the board shall give notice to the party
31 against whom the claim is made and shall initiate proceedings to determine the validity of the
32 claim. If, after investigation, the board determines that a violation of this chapter or of any rule
33 promulgated under this chapter has occurred, the board shall recommend to the ~~registrant~~ licensee
34 any action that the board considers appropriate, including revocation of the ~~registrant's certificate~~

1 [licensee's license](#), to compensate the claimant for any damages incurred as the result of the
2 violation. If the contractor performs accordingly, the board shall give that fact due consideration
3 in any subsequent disciplinary proceeding brought by the board; provided, that the board shall
4 suspend for a period of one year ~~certification~~ [license](#) of any ~~registrant~~ [licensee](#) who is found by
5 final determination to have willfully and knowingly violated any provisions of this chapter with
6 respect to three (3) or more structures within a one year period.

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

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

17 **5-65-13. Nonlawyer may represent corporation before board. --** A corporation that is
18 ~~registered~~ [licensed](#) or required to be ~~registered~~ [licensed](#) as a contractor under this chapter and that
19 is a party in any proceeding before the board or any representative of a party may appear or be
20 represented in the proceeding by an officer of the corporation who is not a member of the state
21 bar.

22 **5-65-18. Mechanics' lien notice. --** As applicable to and in accordance with section 5-
23 65-1 et seq., all written contracts entered into between a contractor under this chapter and a
24 property owner must contain a statement that the contractor, subcontractors, or materialpersons
25 may file a lien in accordance with the Rhode Island Mechanics Lien Act, chapter 28 of title 34. In
26 the event that mechanics' liens are filed and there is no serious dispute, but merely a failure to
27 pay, then the board may impose a suspension of the ~~registration~~ [license](#) until such time as the
28 liens are satisfied, either by payment, deposit of the funds in the registry of the court, or with the
29 board.

30 ~~**5-65-19. Penalty for operating without a registration -- Failure to comply with a**~~
31 ~~**final order of the board -- Repeat offense a felony**~~ **Penalty for operating without a license --**
32 **Failure to comply with a final order of the board -- Repeat offense a felony. --** (a) Any person
33 who violates a final order of the board, or fails to ~~register~~ [become licensed](#) as a contractor as
34 stipulated, and upon proper written notification, is deemed guilty of a misdemeanor, and, upon

1 conviction, shall be imprisoned for a term not exceeding one year, or fined not more than five
2 thousand dollars (\$5,000) for a first offense and not more than ten thousand dollars (\$10,000) for
3 a second and/or subsequent offense(s) each.

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

9 (c) If a contractor is a repeat offender with violations of three (3) or more final orders of
10 the board with respect to three (3) separate contracts executed by three (3) separate
11 individuals/aggrieved parties and said violations are filed within a twenty-four (24) month period,
12 the violation shall be prosecuted as a felony and upon conviction the violator shall be subject to
13 imprisonment for a term not to exceed five (5) years or fined not more than ten thousand dollars
14 (\$10,000).

15 **~~5-65-22. Display of Certificate of registration~~ Display of license.** -- All contractors
16 subject to the provisions of this chapter must include their ~~certificate of registration~~ license
17 number on all advertising proposals, contracts and invoices displayed in a conspicuous manner.

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

20 **5-65-5.1. Issuance of licenses -- Use of examinations to investigate, classify and**
21 **qualify applicants.** – Under reasonable rules and regulations adopted by the board, the board
22 may investigate, classify and qualify applicants for contractors' licenses by written or oral
23 examinations, or both, and may issue contractors' licenses to qualified applicants. The
24 examinations may, in the discretion of the board, be given in specific classifications only.

25 **5-65-5.2. Prohibition from certain persons from licensure.** – To obtain or renew a
26 license under this chapter, a person shall not have had a license refused or revoked, within one
27 year before the person's application, or shall not have engaged in the contracting business, nor
28 shall the person have submitted a bid without first having been licensed within one year before
29 the person's application, nor shall a person act as a contractor between the filing of the application
30 and actual issuance of the license, nor shall the person be found in violation of any provision in
31 section 4-65-10 within one year before the person's application. The board may find any of those
32 actions or circumstances to be excusable if there was a reasonable doubt as to the need for
33 licensure or the actions of the applicant did not result in an unremedied hardship or danger to the
34 public. A person convicted of contracting without a license is not eligible to obtain a license

1 under this chapter for one year after the date of the last conviction.

2 **5-65-27. Residential contractor's guaranty fund.** – (a) There shall be established a
3 residential contractor's guaranty fund within the contractors' registration board, to compensate
4 owners for actual losses incurred by them as a result of licensed contractor conduct which has
5 been found by the board or a court of competent jurisdiction to be work performed in a poor or
6 unworkmanlike manner or which is a common law violation or a violation of any statutes or
7 regulations designed for the protection of consumers, including, but not limited to, prohibited acts
8 listed in section 5-65-10; provided, however, that the owner has exhausted all customary and
9 reasonable efforts to collect the judgment but the contractor has filed for bankruptcy, fled the
10 jurisdiction or the owner is otherwise unable to collect such judgment after execution. The board
11 shall promulgate such regulations as it may deem necessary to implement the fund under this
12 chapter. Prior to the adoption, amendment or repeal of any regulation, the director shall give
13 notice and hold a public hearing in accordance with the requirements of chapter 42-35. The fund
14 administrator shall be responsible for implementing the provisions of this chapter and such
15 regulations as the board may promulgate as they relate to the fund.

16 (b) For purposes of recovery against the fund, the conduct of a licensed contractor shall
17 be deemed to include the conduct of his/her employees, sales persons and subcontractors, whether
18 or not an express relationship exists, provided the work or activities of such individuals is within
19 the scope of the contractor and not for additional work beyond the contract which such
20 individuals undertake by separate agreement with the owner.

21 (c) Surplus fees levied and collected pursuant to R.I.G.L. section 23-27.3-108.2(c) shall
22 be transferred to the residential contractors' guaranty fund.

23 **5-65-27.1. Operation of fund.** – (a) The fund administrator shall operate the fund in
24 accordance with this chapter and maintain the fund at a level which is commensurate with claims
25 anticipated to be made against it. All monies collected shall be deposited to the credit of the fund
26 into a special interest bearing account to be administered by the fund administrator who shall
27 invest or reinvest the money of the fund. No portion of monies in said account shall be used for
28 the administration of the fund, except as required by this paragraph. Interests accruing from
29 investment of money in the fund shall be credited to the fund, with a portion of the interest, the
30 amount of which shall be determined by the fund administrator, to be applied to educating
31 consumers, contractors and others as to the requirement of this chapter.

32 **5-65-27.2. Claims against the fund.** – (a) An owner may make a claim to the fund only
33 if he/she has complied with the provisions of sections 5-65-11 and 5-65-12, and has filed his/her
34 claim with the fund within six (6) months after the owner has obtained a judgment or arbitration

1 award, and has exhausted all such customary and reasonable efforts to collect the judgment or
2 award.

3 (b) A claim under this section shall not be construed to limit the availability of other legal
4 or equitable remedies unless the claim made is for the full amount of the value of the work
5 claimed as damages, in which case the contractor or subcontractor, upon repayment to the fund,
6 may use repayment as a defense via settlement.

7 (c) The fund administrator may not award:

8 (1) more than ten thousand dollars (\$10,000) or any amount necessary to compensate the
9 owner for his/her actual loss, whichever is less to any one claimant; or

10 (2) more than seventy-five thousand dollars (\$75,000) to claims on account of the
11 conduct of any one licensed contractor within a twelve (12) month period, unless after the fund
12 administrator has paid out said seventy-five thousand dollars (\$75,000) the licensee has repaid the
13 fund the full amount; provided, however, that it is within the discretion of the fund administrator
14 to waive the limit with cause; or

15 (3) any amount for consequential damages, except as may be allowed under section 5-65-
16 12, or for personal injury, punitive damages, attorneys' fees, court costs or interest.

17 (d) If at anytime the money deposited in the fund is insufficient to satisfy any approved
18 claim or portion thereof, the fund administrator, when sufficient money has been deposited in the
19 fund, shall satisfy the unpaid claims or portions thereof in the order that the claims were
20 originally filed with the fund administrator.

21 (e) The pendency of a claim against the fund shall not limit the administrator from taking
22 disciplinary action against any licensed contractor pursuant to this chapter.

23 **5-65-27.3. Subrogation of fund administrator.** – (a) When the fund administrator has
24 paid from the fund any sum to a claimant, the fund administrator shall be subrogated to all rights
25 of the claimant up to the amount paid, and the claimant shall assign all the claimant's rights, title
26 and interest in the claim up to the amount paid to the claimant by the fund administrator.

27 (b) Payment from the fund of any sum to a claimant under this section shall vest in the
28 fund administrator a right to reimbursement to the fund, with interest, any money paid on account
29 of the licensed contractor found by the fund administrator to be responsible for the claim.

30 (c) If the amount paid from the fund, plus interest at a rate set by the fund administrator,
31 is not repaid by the licensed contractor on whose account a claim was paid in full, within thirty
32 (30) days after notice, the attorney general may seek legal proceedings to recover against the
33 licensed contractor the amount unpaid. The fund administrator shall be entitled to a judgment for
34 such amount upon a showing that:

1 (1) the licensee was afforded notice and an opportunity to be heard in legal actions which
2 resulted in the judgment against the licensee, and

3 (2) no appeal is pending; and

4 (3) the fund administrator has directed payment from the fund based on the final
5 judgment of the board or a court of competent jurisdiction.

6 (d) The fund shall be deemed a creditor with respect to any amount paid from the fund
7 for the purpose of expecting to any discharge of the licensed contractor under federal bankruptcy
8 law.

9 SECTION 3. Sections 23-27.3-108.2 and 23-27.3-113.3.2 of the General Laws in Chapter
10 23-27.3 entitled "State Building Code" are hereby amended to read as follows:

11 **23-27.3-108.2. State building commissioner's duties.** -- (a) This code shall be enforced
12 by the state building commissioner as to any structures or buildings or parts thereof that are
13 owned or are temporarily or permanently under the jurisdiction of the state or any of its
14 departments, commissions, agencies, or authorities established by an act of the general assembly,
15 and as to any structures or buildings or parts thereof that are built upon any land owned by or
16 under the jurisdiction of the state.

17 (b) Permit fees for the projects shall be established by the committee. The fees shall be
18 deposited as general revenues.

19 (c) The local cities and towns shall charge each permit applicant an additional .1 (.001)
20 percent (levy) of the total construction cost for each permit issued. The levy shall be limited to a
21 maximum of fifty dollars (\$50.00) for each of the permits issued for one and two (2) family
22 dwellings. ~~This additional levy shall be transmitted monthly to the building commission at the~~
23 ~~department of administration, and shall be used to staff and support the programs described in this~~
24 ~~chapter. The fee levy shall be deposited as general revenues.~~ Contractors' registration board for
25 the purpose of funding the residential contractors' guaranty fund created in section 5-65-27. The
26 fee levy shall be deposited into the funds' special interest bearing account as provided in section
27 5-65-27.1.

28 (d) The building commissioner shall, upon request by any state contractor described in
29 section 37-2-38.1, review, and when all conditions for certification have been met, certify to the
30 state controller that the payment conditions contained in section 37-2-38.1 have been met.

31 **23-27.3-113.3.2. Applications for work requiring registered workers.** -- (a) Prior to
32 the approval of a permit issued to any contractor for work which state law requires that said
33 contractor be ~~registered~~ licensed, the ~~registered~~ licensed contractor shall show the building
34 official a recognized form of identification from the contractors' registration board and sign the

1 permit. The local official may verify the work is being done properly in the following manner:

2 If the worker is not a registered or licensed person, then the local official may take
3 whatever remedial actions allowed by the code pertaining to the improper work found in
4 violation. The workers found to be doing work without a valid Rhode Island registration or
5 license shall be reported to the appropriate registration board for sanctions and penalties.

6 (b) The owner/occupant of single family dwelling shall be exempt from the ~~registration~~
7 license requirements of subsection (a), but must obtain a permit, be inspected by the local official
8 in accordance with the provisions of the code, and obtain approval of the work prior to use of the
9 completed alteration. Additionally, in order to be exempt from the ~~registration~~ license
10 requirements of subsection (a), the owner/occupant must undertake the work required to be
11 licensed without the assistance of others who are compensated.

12 SECTION 4. This act shall take effect on January 1, 2008.

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

1 This act would require the licensing of contractors. The act would establish a residential
2 contractor guaranty fund for homeowners who are aggrieved by contractors and who have
3 exhausted all other legal and equitable remedies.

4 This act would take effect January 1, 2008.

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