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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2008

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A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- CONTRACTORS' REGISTRATION

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

Date Introduced: May 14, 2008

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1           SECTION 1. Sections 5-65-1, 5-65-2, 5-65-3, 5-65-5, 5-65-10, 5-65-12, 5-65-16 and 5-  
2   65-19 of the General Laws in Chapter 5-65 entitled "Contractors' Registration and Licensing  
3   Board" are hereby amended to read as follows:

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

5           (1) "Board" means the contractors' registration and licensing board established pursuant  
6   to the provisions of Rhode Island general laws section 5-65-14 [or its designees](#).

7           (2) "Commission" means the building code commission supportive of the contractors'  
8   registration and licensing 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, to hear  
4 contested claims or cases, contested enforcement proceedings, and contested administrative fines,  
5 in accordance with the Administrative Procedures Act, chapter 35 of title 42.

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

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

10 (8) "Structure" means (i) any commercial building; or (ii) any building containing one or  
11 more residences and their appurtenances. The board's dispute resolution process shall apply only  
12 to residential structures containing dwelling units as defined in the state building code or  
13 residential portions of other types of buildings without regard to how many units any structure  
14 may contain. The board retains jurisdiction and may conduct hearings regarding violations  
15 against all contractors required to be registered or licensed by the board.

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

18 (10) "Monetary damages" means the dollar amount required in excess of the contract  
19 amount necessary to provide the claimant with what was agreed to be provided under the terms of  
20 the contract reduced by any amount due and unpaid to the respondent inclusive of any and all  
21 awards and restitution.

22 **5-65-2. Applications.** – (a) The following persons shall be exempt from registration  
23 under this chapter:

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

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

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

32 (4) A person working on one structure or project, under one or more contracts when the  
33 price of all of that person's contracts for labor, materials, and all other items is less than five  
34 hundred dollars (\$500) and the work is of a casual, minor, or inconsequential nature. This

1 subsection does not apply to a person who advertises or puts out any sign or card or other device,  
2 which might indicate to the public that the person is a contractor.

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

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

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

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

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

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

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

22 (10) Any person or business entity licensed by the state employing licensed trades  
23 persons as defined by chapters 6, 20, and 56 of this title, and 26 and 27 of title 28 and working  
24 within the purview of the license issued by the governing agency shall be exempt from all the  
25 provisions of this chapter except section 5-65-7, requiring insurance. A valid certificate of  
26 insurance shall be required to be maintained by the licensing agency during the terms of the  
27 issuance date of the license as a condition for a valid license. Failure of the licensee to maintain  
28 this insurance shall result in loss of license pursuant to requirements of statutes governing the  
29 licensing authority.

30 (b) No registration shall be issued to a nonresident contractor until he or she has filed  
31 with the board a power of attorney constituting and appointing a lawful attorney upon whom all  
32 processes in any action or legal proceeding against him or her may be served, and in the power of  
33 attorney agrees that any lawful process against him or her which may be served upon his or her  
34 attorney is of the same force and validity as if served on the nonresident contractor, and that the

1 [force continues irrevocably in force until such time as the board has been duly notified in writing](#)  
2 [of any change to that status.](#)

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

17 (b) A registered partnership or corporation shall notify the board in writing immediately  
18 upon any change in partners or corporate officers.

19 (c) A city, town, or the state shall not issue a building permit to anyone required to be  
20 registered under this chapter who does not have a current, valid certificate of registration  
21 identification card or valid license which shall be presented at the time of issuance of a permit  
22 and shall become a condition of a valid permit. Each city, town, or the state which requires the  
23 issuance of a permit as a condition precedent to construction, alteration, improvement,  
24 demolition, movement or repair of any building or structure or the appurtenance to the structure  
25 shall also require that each applicant for the permit file as a condition to issuing the permit a  
26 written affidavit subject to the penalties of perjury, subscribed by the applicant, that the applicant  
27 is registered under the provisions of this chapter, giving the number of the registration and stating  
28 that the registration is in full force and effect, or, if the applicant is exempt from the provisions of  
29 this chapter, listing the basis for the exemption. The city, town, or the state shall list the  
30 contractor's registration number on the permit obtained by that contractor, and if a homeowner is  
31 issued a permit, the building inspector or official must ascertain registration numbers of each  
32 contractor on the premises and shall inform the registration board of any non-registered  
33 contractors performing work at the site.

34 (d) Every city and town which requires the issuance of a business license as a condition

1 precedent to engaging, within the city or town, in a business which is subject to regulation under  
2 this chapter, shall require that each licensee and each applicant for issuance or renewal of the  
3 license file, or has on file, with the city or town a signed statement that the licensee or applicant is  
4 registered under the provisions of this chapter and stating that the registration is in full force and  
5 effect.

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

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

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

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

22 (i) Names and addresses.

23 (ii) Registration numbers or other license numbers.

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

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

1 5-65-2 shall be required to register, provided that said work is performed under the purview of  
2 that license.

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

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

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

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

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

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

22 (n) The board may assess an interest penalty ~~of when claims have been filed with the~~  
23 ~~board at~~ twelve percent (12%) annually when a monetary award is ordered by the board.

24 (o) All work performed, including labor and materials, in excess of one thousand dollars  
25 (\$1,000) shall be accompanied by a contract in writing. Contracts required pursuant to this  
26 subsection shall include a location on or near the signature line location on or in which the parties  
27 to the contract shall initial to evidence the receipt of certain consumer education materials or  
28 information approved and provided by the board to the contractor. Said educational materials  
29 and/or information shall include, but not be limited to, the following notice and shall be provided  
30 by the contractor to the homeowner:

31 NOTICE OF POSSIBLE MECHANIC'S LIEN

32 To: Insert name of owner, lessee or tenant, or owner of less than the simple fee. The  
33 undersigned is about to perform work and/or furnish materials for the construction, erection,  
34 alterations or repair upon the land at (INSERT ADDRESS) under contract with you. This is a

1 notice that the undersigned and any other persons who provide labor and materials for the  
2 improvement under contract with the undersigned may file a mechanic's lien upon the land in the  
3 event of nonpayment to them. It is your responsibility to assure yourself that those other persons  
4 under contract with the undersigned receive payment for their work performed and materials  
5 furnished for the construction, erection, alteration or repair upon the land. Failure to adhere to the  
6 provisions of this subsection may result in a one thousand dollar (\$1,000) fine against the  
7 contractor and shall not affect the right of any other person performing work or furnishing  
8 materials of claiming a lien pursuant to Chapter 34-28. However, such person failing to provide  
9 such notice shall indemnify and hold harmless any owner, lessee or tenant, or owner of less than  
10 the fee simple from any payment or costs incurred on account of any liens claims by those not in  
11 privity with them, unless such owner, lessee or tenant, or owner of less than the fee simple shall  
12 not have paid such person.

13 (p) Contracts entered into must contain notice of right of rescission as stipulated in all  
14 pertinent Rhode Island consumer protection laws.

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

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

19 **5-65-5. Registered application.** -- (a) A person who wishes to register as a contractor  
20 shall submit an application, under oath, upon a form prescribed by the board. The application  
21 shall include:

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

24 (2) Unemployment insurance account number if applicable;

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

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

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

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

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

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

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

34 (6) A signed affidavit subject to the penalties of perjury of whether or not the applicant

1 has previously applied for registration, or is or was an officer, partner, or venturer of an applicant  
2 who previously applied for registration and if so, the name of the corporation, partnership, or  
3 venture.

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

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

11 (c) Failure to provide or falsified ~~Falsified~~ information on an application, or ~~failure to~~  
12 ~~provide~~ any document required by this chapter is punishable by a fine not to exceed ten thousand  
13 dollars (\$10,000).

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

15 (e) Satisfactory proof shall be provided to the board evidencing the completion of five  
16 (5) hours of continuing education units which will be required to be maintained by residential  
17 contractors as a condition of registration as determined by the board pursuant to established  
18 regulations.

19 (f) An affidavit issued by the board shall be completed upon registration or renewal to  
20 assure contractors are aware of certain provisions of this law and shall be signed by the registrant  
21 before a registration can be issued or renewed.

22 **5-65-10. Grounds for discipline -- Injunctions.** -- (a) The board or commission may  
23 revoke, suspend, or refuse to issue, reinstate, or reissue a certificate of registration if the board or  
24 commission determines after notice and opportunity for a hearing:

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

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

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

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

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

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



- 1 (7) That the registrant has substantially violated state or local building codes.
- 2 (8) That the registrant has made false or fraudulent statements on his or her application.
- 3 (9) That a registrant has engaged in repeated acts in violation of this chapter and the  
4 board's rules and regulations inclusive of substandard workmanship and any misuse of  
5 registration.
- 6 (10) The board may take disciplinary action against a contractor who performed work or  
7 arranged to perform, while the registration was suspended, invalidated or revoked. Deposits  
8 received by a contractor and ordered returned are not considered a monetary award when no  
9 services or supplies have been received.
- 10 (11) That the registrant breached a contract.
- 11 (12) That the registrant performed negligent and/or improper work.
- 12 (13) That the registrant has advertised with a license number instead of using a  
13 registration number.
- 14 (14) That the registrant has failed to complete a project(s) for construction or a willful  
15 failure to comply with the terms of a contract or written warranty.
- 16 (15) That the registrant has misrepresented his registration status as valid when said  
17 registration is suspended, revoked, invalidated, inactive or unregistered as required by the board.
- 18 (16) That the registrant has failed to pay a fine or ~~respond to~~ comply with any order  
19 issued by the board.
- 20 (17) That the registrant has failed to obtain or maintain the required continuing  
21 education/ units required by the board, or failed to sign the affidavit required by the board for  
22 registration or renewal.
- 23 (18) When a violation for hiring a non-registered contractor, working as a non-registered  
24 contractor, or not maintaining the insurance required is issued, the registration may become  
25 invalidated until the violation is resolved or hearing is requested on this offense.
- 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) ~~The~~ 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 ~~a~~ [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 **5-65-12. Procedure for making claims against a contractor -- Investigation by board**

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

33 (1) All claims filed with the contractor's registration board shall be heard by a designated  
34 hearing officer, unless either party prior to the administrative hearing, files a civil action on the

1 matter in a state court. Upon receipt of a written notice and a copy of the filed civil complaint the  
2 board shall discontinue processing the claim. If documentation is not received, the hearing will be  
3 conducted.

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

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

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

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

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

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

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

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

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

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

33 (4) Regardless of whether the claim involves a new or existing structure, if the owner  
34 files a claim because the contractor failed to substantially complete the work, the board must

1 receive the claim not later than one year after the date the contractor ceased work on the structure.

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

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

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

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

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

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

32 ~~**5-65-16. Investigatory powers of board -- Use of city or county inspectors -- Conduct**~~  
33 ~~**of hearings Powers and duties of the board -- Investigatory powers of board -- Use of city or**~~  
34 ~~**county inspectors -- Conduct of hearings. --**~~ (a) The board may investigate the activities of any

1 person engaged in the building and construction industry to determine compliance with this  
2 chapter.

3 (b) With the assistance of the city or town, the board may conduct investigations with the  
4 assistance of the local building officials.

5 (c) The board has the power to administer oaths, issue notices and subpoenas in the name  
6 of the board, compel the attendance of witnesses and the production of evidence, hold hearings  
7 and perform any other acts that are reasonably necessary to carry out its duties under this chapter.

8 (d) If any person fails to comply with a subpoena issued under subsection (c) of this  
9 section or refuses to testify on matters on which the person may be lawfully interrogated, the  
10 board may compel obedience.

11 (e) The board shall have the authority to hire private investigators or constables to carry  
12 out the duties of this chapter. The costs and expenses incurred by the hiring of private  
13 investigators may be borne by the contractor or non-prevailing party.

14 (f) In addition to all powers granted to the board under this chapter the board shall have  
15 the power and authority to:

16 (1) award monetary damages and fines provided by this chapter;

17 (2) order specific performance of any contract; and

18 (3) provide any other relief and/or remedy provided by this chapter and the contractors'  
19 registration board's rules and regulations.

20 (g) The board may, at its discretion, require any contractor who has had action taken  
21 against his/her registration to obtain a bond not to exceed thirty thousand dollars (\$30,000).

22 **5-65-19. Penalty for operating without a registration -- Failure to comply with a**  
23 **final order of the board -- Repeat offense a felony. --**

(a) Any person who violates a final order  
24 of the board, or fails to register as a contractor as stipulated, and upon proper written notification,  
25 is deemed guilty of a misdemeanor, and, upon conviction, shall be imprisoned for a term not  
26 exceeding one year, or fined not more than five thousand dollars (\$5,000) for a first offense and  
27 not more than ten thousand dollars (\$10,000) for a second and/or subsequent offense(s) each.

28 (b) A final order shall be considered delivered when served to a defendant or designated  
29 agent to accept service. In addition to any sentence or fine imposed by the court under subsection  
30 (a) of this section, the court may order a defendant to comply with any outstanding final order of  
31 the board, including any monetary judgment, and/or to pay to the board any outstanding fine or  
32 fines previously imposed by the board pursuant to ~~section 5-65-10(e)~~ this chapter.

33 (c) If a contractor is a repeat offender with violations of three (3) or more final orders of  
34 the board with respect to three (3) separate contracts executed by three (3) separate

1 individuals/aggrieved parties and said violations are filed within a twenty-four (24) month period,  
2 the violation shall be prosecuted as a felony and upon conviction the violator shall be subject to  
3 imprisonment for a term not to exceed five (5) years or fined not more than ten thousand dollars  
4 (\$10,000).

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

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LC02913  
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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO BUSINESSES AND PROFESSIONS – CONTRACTORS' REGISTRATION

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- 1           This act would amend several provisions of the contractors' registration board including
- 2 detailing the boards powers and duties.
- 3           This act would take effect upon passage.

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LC02913  
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