

2017 -- H 5826 SUBSTITUTE A

LC001826/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

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

Introduced By: Representatives Tanzi, Carson, Ranglin-Vassell, McEntee, and
Donovan

Date Introduced: March 02, 2017

Referred To: House Corporations

It is enacted by the General Assembly as follows:

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

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

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

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

1 upon any change in partners or corporate officers.

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

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

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

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

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

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

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

5 (i) Names and addresses.

6 (ii) Registration numbers or other license numbers.

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

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

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

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

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

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

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

1 each offense at the discretion of the board.

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

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

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

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

15 The undersigned is about to perform work and/or furnish materials for the construction,
16 erection, alterations or repair upon the land at (INSERT ADDRESS) under contract with you.
17 This is a notice that the undersigned and any other persons who provide labor and materials for
18 the improvement under contract with the undersigned may file a mechanic's lien upon the land in
19 the event of nonpayment to them. It is your responsibility to assure yourself that those other
20 persons under contract with the undersigned receive payment for their work performed and
21 materials furnished for the construction, erection, alteration or repair upon the land. Failure to
22 adhere to the provisions of this subsection may result in a one thousand dollar (\$1,000) fine
23 against the contractor and shall not affect the right of any other person performing work or
24 furnishing materials of claiming a lien pursuant to Chapter 34-28. However, such person failing
25 to provide such notice shall indemnify and hold harmless any owner, lessee or tenant, or owner of
26 less than the fee simple from any payment or costs incurred on account of any liens claims by
27 those not in privity with them, unless such owner, lessee or tenant, or owner of less than the fee
28 simple shall not have paid such person.

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

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

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

1 (s) In addition to the requirements of this chapter, contractors engaged in well drilling
2 activities shall also be subject to regulations pertaining to licensing and registration promulgated
3 by the contractors' registration and licensing board pursuant to chapter 5-65.2 and § 46-13.2-4.

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

6 **5-65-27. Elderly person in-home solicitation - Right to cancel.**

7 (a) Definitions. For purposes of this section:

8 (1) "Consumer" means an individual who contracts with a person offering to undertake or
9 submit a bid to do work as a contractor.

10 (2) "Elderly person" is defined in §42-66-4.1.

11 (3) "Emergency" means an urgent and immediate need for services, assistance or repairs,
12 which must be addressed without delay to avoid substantial harm to persons or property.

13 (4) "In-home solicitation" means any transaction made at the consumer's primary
14 residence, including telephonic or online, except those transactions initiated by the consumer. A
15 consumer response to an advertisement is not an in-home solicitation.

16 (5) "Person" means an individual, partnerships, corporation, limited-liability company,
17 association, or other group, however organized.

18 (6) "Services" means work, labor, and services as a contractor pursuant to chapter 65 of
19 title 5, as well as other disciplines governed by the board pursuant to statutory law.

20 (b) In addition to all other methods of consumer protection provided by federal or state
21 law, any contract which originates from an in-home solicitation of an elderly person for the
22 purposes of performing work as a contractor pursuant to chapter 65 of title 5, as well as other
23 disciplines governed by the board pursuant to statutory law, shall provide that any consumer who
24 is an elderly person shall, in the absence of an emergency as defined herein, have three (3) days
25 within which to cancel the in-home solicitation contract for contractor services.

26 (c) The contractor shall, at the time of the agreement in accordance with §5-65-3, give
27 notice to the elderly person of all the rights that substantially comply with this section. The notice
28 must:

29 (1) Appear in the agreement under the conspicuous caption: "Notice of Cancellation";
30 and

31 (2) Read as follows:

32 ... (date of transaction) "You may cancel this agreement, without any penalty or
33 obligation, within three (3) business days from the above date. If you cancel, your cancellation
34 notice must state that you do not wish to be bound by the agreement and mailed by registered or

1 certified mail not later than midnight three (3) days following the consumer's signing the
2 agreement, excluding Sunday and any holiday on which regular mail deliveries are not made. All
3 cancellations must be mailed to:

4 (insert name and address of the seller)."

5 (d) Whenever the agreement fails to conform to the provisions of this section and the
6 consumer or their agent has notified the seller of their intent to cancel the agreement by registered
7 mail, return receipt requested, the contractor shall, within twenty (20) days, return any deposit
8 made by the consumer. Failure to return any deposit shall enable the consumer to recover from
9 the contractor double damages in any subsequent legal proceeding.

10 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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

1 This act would provide that elderly persons may, absent an emergency, cancel any
2 agreement for contractor services within three (3) days if the contract originated in an in-home
3 solicitation by the contractor.

4 This act would take effect upon passage.

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