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ENERGY EFFICIENCY SERVICES for HOMES and SMALL BUSINESSES

Energy Assessment • Home Energy Profile • Healthy Home Evaluation

Consulting • Home Repairs • Air Sealing & Insulating

**The whole house approach to improving the comfort, safety and efficiency of your home.
*your local energy efficiency experts!***

TESTIMONY on S.163, for the HOUSE COMMITTEE on GENERAL, HOUSING and MILITARY AFFAIRS

May 2, 2019

MY BACKGROUND- For well over 20 years I have performed many types of home repairs and small renovations, as sole employee of Brad Cook's Home Repairs. I also performed one to two dozen home inspections each year during that time. Since about 2001, I have performed progress inspections for a company that administers construction loans for banks, inspecting anywhere from 1 to 6 or 7 new homes a year, and meeting and observing many builders and new homes being constructed, from the ground up. I have also performed work on many rental units in Central Vermont.

In 2006 I took training courses and achieved BPI (Building Performance Institute-bpi.org) certification in 3 different areas. In 2008 I created my present business, Building Performance Services LLC, hired employees, bought equipment and started doing weatherization work on homes and small businesses. We have won several awards for our work. I was a founding member of Efficiency First and started a Vermont Chapter for Home Performance Contractors. I have continued to take courses and gain more certifications and skills, including Level I thermography, another BPI certification (Healthy Homes Evaluator), DOE Home Energy Scorer, RRP certification and HRAI Residential Ventilation Installer and EPA 608 Refrigerant License. I also have a BA in Physics from St. Michael's College.

This gives me a fairly broad perspective of the residential construction industry in Vermont.

A few comments on the first part of the bill-

{Rental} Housing, health and safety- (Synopsis)

- Primarily deals with collecting data, relating to complaints to local Health Officer, making complaint reports more available to the public- create another database
- Changes some details relating to fines and adjudication
- Updates RentalCodes.org (or similar) website
- “Develop recommendations for the design and implementation of a comprehensive system for the professional enforcement of State rental housing health and safety laws...”

- Deadlines are very short
 - August 1, 2019 for municipalities to report on inspection activity for past 12 months
 - Sept. 30, 2019 for Dept. of Health to provide interim progress report
 - January 15, 2020 for Recommendations for a comprehensive plan
- This does not address the majority of rental Health Code violations, which go unreported. It only addresses the most severe violations

ADD “Residential Contractors” to professions attached to the OPR (Quoted text and synopsis)

§ 5401. REGISTRATION REQUIRED

A person shall register with the Office of Professional Regulation prior to offering or contracting with a homeowner to perform construction, remodeling, or home improvement work on a residential dwelling unit or on a building or premises with four or fewer residential dwelling units, in exchange for consideration of more than \$2,000.00, including labor and materials.

§ 5402. EXEMPTIONS

This chapter does not apply to:

- (1) an employee acting within the scope of his or her employment for a business organization registered under this chapter;
- (2) a professional engineer, licensed architect, or a tradesperson licensed by the Department of Public Safety acting within the scope of his or her license;
- (3) delivery or installation of consumer appliances, audio-visual equipment, telephone equipment, or computer network equipment;
- (4) landscaping;
- (5) work on a structure that is not attached to a residential building;
- (6) work that would otherwise require registration that a person performs in response to an emergency, provided the person applies for registration within a reasonable time after performing the work.

Provides for SOS to implement procedures and standards for voluntary certifications:

§ 5403. MANDATORY REGISTRATION AND VOLUNTARY CERTIFICATION DISTINGUISHED

(a)(1) The system of mandatory registration established by this chapter is intended to protect against fraud, deception, breach of contract, and violations of law, but is not intended to establish standards for professional qualifications or workmanship that is otherwise lawful.

§ 5407. FEES

A person regulated under this chapter shall pay the following fees at initial application and biennial renewal:

- (1) Registration, individual: \$75.00.
- (2) Registration, business organization: \$250.00.
- (3) State certifications: \$75.00 for a first certification and \$25.00 for each additional certification.

§ 5409. REQUIREMENTS OF REGISTRANTS

(a) Insurance. A person registered under this chapter shall maintain professional liability insurance in the amount of \$300,000.00 per claim and \$1,000,000.00 aggregate, evidence of which may be required as a precondition to issuance or renewal of a registration.

(b) Writing.

(1) A person registered under this chapter shall execute a written contract prior to receiving a deposit or commencing residential construction work if the estimated value of the labor and materials exceeds \$1,000.00.

(2) A contract shall specify:

(A) Price. One of the following provisions for the price of the contract:

(i) a maximum price for all work and materials;

(ii) a statement that billing and payment will be made on a time and materials basis, not to exceed a maximum price; or

(iii) a statement that billing and payment will be made on a time and materials basis and that there is no maximum price.

(B) Work dates. Estimated start and completion dates.

(C) Scope of work. A description of the services to be performed and a description of the materials to be used.

(D) Change order provision. A description of how and when amendments to the contract may be approved and recorded.

(3) The parties shall record an amendment to the contract in a signed writing.

(c) Down payment. Unless a contract specifies that billing and payment will be made on a time and materials basis and that there is no maximum price, the contract may require a down payment of up to one-third of the contract price, or of the price of materials, whichever is greater.

Can be punishable by up to \$5,000 in fines and up to a year in prison.

- I do not see how this legislation would meet the stated goals or protect the public.
 - Fraud, deception and other violations of law are already against the law.
 - Breach of contract is a civil matter, and breach of the contract required under this law would also be a civil matter.
- It appears that the intent of this is to provide a database that consumers can check before hiring a contractor, but most homeowners would not be aware of the database, and many homeowners, especially seniors, do not have the savvy to even think of how they could protect themselves from fraud (note how many seniors get scammed by telephone every year). The AG's office already has a database of contractors that have been *convicted* of fraud.
- A threshold of \$2,000 is very unrealistic, especially when including the requirement for a contract, as defined.
- Creates another database
 - More personal information collected
 - Vermont has a poor track record with new databases (DMV, VT Health Connect, Medical Records Database, etc.)

- Does not cover structures not attached to a residential building (what about garages, workshops, large sheds, etc. that cost well over \$2,000?)
- FEES- which particularly affect the small business-
 - \$75 for individual and \$250 for a business organization
 - What is the distinction? Is an individual operating under a business name (which must be registered with the SOS) a business or individual? What about a Sole Proprietor LLC with no employees?
 - \$250 for a business is another fixed cost on top of all of our other fixed costs. Also include costs for administration of the registration and preparation and processing of all of those contracts.
 - All of the valid contracting businesses are already paying lots of recurring fees, starting with their registration with the SOS office for \$35/year (eg.- BPI and RRP re-certification fees for me average over \$300 per year)
- Contract requirements-
 - The requirement for a contract when estimated work is over \$1,000, will cover almost all work done by a contractor. This is very unrealistic and a big burden for the many small projects done on a home-
 - Install a window; replace a vanity and sink; refinish a floor; air seal and insulate even a small attic; replace a water heater (or is that an “appliance”?); prep/prime and paint one large room; etc.
 - That is a lot of small contracts to write and process.
 - Start/Stop dates-I write proposals with a work scope, price and contract terms. The proposal only becomes a contract after the client signs it and provides a modest deposit. That step often takes weeks for a client to accomplish, and many proposals never even move forward. I do not schedule any work until I receive that signed contract. Do I now send that contract back to them with a start and stop date added, for them to sign again?
 - Scope of work and description of materials can, and is often very brief, leaving a lot of latitude in meeting the contract. A sparsely worded contract can make it almost impossible to argue for a breach of contract in a court of law. Not much protection there.
- Many will not register:
 - They won't get the word-
 - Many individuals or very small businesses don't use electronic devices much for business
 - Many individuals don't read newspapers or even watch much news on TV
 - Examples-
 - When Legislature passed the law requiring licensing of Home Inspectors, or when SOS was implementing the rules, I did not know about it until I stumbled across a comment on the internet when I was searching for something unrelated. If you had Googled “home inspection, VT” or similar, you would have found me on the second page.

- I see many
 - Landlords ignoring EMP laws
 - Builders ignoring VTRBES law
 - Painters ignoring RRP and EMP laws
- Some contractors just won't bother even if they are aware of the law.

Housing Rehabilitation and Weatherization; Vermont Rental Housing Incentive Program

Sec. 12. 10 V.S.A. chapter 29, subchapter 3 is amended to read:

Would provide grants to private landlords (up to 1/3 the cost of the project, with max of \$7,000 grant) to rehab housing. Must include weatherization and must bring housing up to all codes.

- Applies only to *vacant* (>90 days) or *blighted* (uninhabitable) housing
 - If vacant, then it is not very rentable- most areas of VT have low un-occupancy rates
 - If blighted, it is going to be costly to upgrade, and is not currently rentable.
- Funding would be better spent on incentivizing existing rental housing to improve energy efficiency and create healthier living environments, leading to lower healthcare costs. Efficiency Vermont is starting a pilot project to help get funding for weatherization for low income people with health issues such as asthma or COPD. The goal is to not only save energy but also improve the health of the indoor environment, which would lead to lower healthcare costs.