

MEMORANDUM

To: Senate Committee on Appropriations and Senator Allison Clarkson

From: S. Lauren Hibbert, Director
Office of Professional Regulation
828-2458

Date: March 22, 2019

Re: S.163, Home Improvement Contractors portion of An Act Relating to Housing Safety and Rehabilitation, As Voted out of the Senate Committee on Economic Development, Housing and General Affairs

S. 163, Section 10, creates two positions within OPR

These two positions will be within the licensing division. Both positions are funded entirely out of OPR's special fund raised through fees and there are no general fund dollars used to support them. The creation of this profession requires these positions. OPR cannot absorb this important public protection work or succeed in carrying out the Legislature's directive without appropriate staffing.

In 2004 OPR had 34,000 licensees, received 400 complaints of unprofessional conduct per year, and had a staff of 30. Today, OPR has 74,000 licensees, received 890 complaints of unprofessional conduct on 2018, and has a staff of 35. Despite more than doubling its workload in that time, OPR has only increased its staff by about 15%.

OPR has been able to sustain its small staffing growth through improvements in technology, staff reorganization and efficient business process. But the business is now suffering. Its staff to licensee ratios impacts customer service, application and complaint processing times. Adding more licensees without adding staff with significantly impact the performance across all of OPR's regulatory programs.

This new regulatory program has additional complications in that this community has not previously been regulated. Significant outreach and on-ramping is required. OPR needs these additional positions to properly support the program.

The addition of this profession will add fees to the OPR Special fund.

S. 163, Sec. 9, 26 V.S.A. § 5407: Fees

Application and biennial renewal fees are:

- (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.

We do not know how many contractors are in Vermont or how many we expect to register. If the revenue does not fit the cost of regulation we will adjust the fees accordingly, either up or down. The reason multiple certifications are discounted is because we want to encourage people to obtain them. These fees do not go into the General Fund; but instead into the Special Fund and may only be used to support professional regulation activities.

History & Purpose

S.163 proposes residential contractors be required to register with the Office of Professional Regulation. OPR is an administrative agency under the Secretary of State, responsible a majority of the State's occupational and professional regulation. The Director of OPR is appointed and overseen by the Secretary of State, and works with a staff of 35, including investigators, prosecutors, hearing officers, and licensing administrators, to ensure that professional regulation serves the public. OPR oversees forty-eight regulatory programs affecting more than 74,000 regulated persons and entities, including such professions and occupations as architects, engineers, home inspectors, real estate brokers and wastewater system designers.

Vermont is one of the few states where citizens are not protected from home-improvement fraud. In the 2017 Session, the General Assembly requested that OPR undertake a preliminary sunrise review of the home improvement landscape and the principle that occupational regulation should be applied only where absolutely necessary to address real harm to the public. OPR's sunrise report confirmed what the AG's office had previously reported: that home improvement fraud was rampant if the contract was under 7,500 and that there were frequent fliers committing the fraud.

This legislation will create a "light-touch" regulation. Regulation enables us first to know who is out in the marketplace, and second, to rein in abuses and frauds through administrative process—a more nimble and efficient means of enforcement, and consequently, one that can work to protect homeowners in the real world. Under this legislation, registration will be mandatory for all home contractors who enter into a contract for home-improvement services of \$1,000.00 or more. The goal is a very wide, very light regulatory net, spanning a broad range of work on residential dwellings. In the event of misconduct, a registration may be suspended, revoked, or conditioned after due process is afforded as necessary to protect the public.

This light-touch proposal requires three basic elements to protect the public:

- registration;
- insurance; and
- a written contract