

House Calendar

Thursday, January 13, 2022

10th DAY OF THE ADJOURNED SESSION

House Convenes at 3:00 PM

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ACTION CALENDAR

Favorable with Amendment

H. 74

An act relating to making miscellaneous changes concerning self-storage businesses

Rep. Nigro of Bennington, for the Committee on Commerce and Economic Development, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 9 V.S.A. chapter 98 is amended to read:

CHAPTER 98. STORAGE UNITS

§ 3901. DEFINITIONS

As used in this chapter, ~~the following terms shall have the following meanings:~~

(1) “Default” means the violation or failure to perform a duty or obligation created in this chapter or in a rental agreement.

(2) “Electronic mail” means the transmission of information through computer or other electronic means or a communication sent to a person identified by a unique electronic address.

(3) “Last known address” means that the mailing address, and the e-mail address if applicable, provided by the occupant in the a rental agreement or the address provided by the occupant in a subsequent written notice of a change of address.

(4)(A) “Late fee” means a fee or charge assessed for an occupant’s failure to pay rent or other fees, charges, or expenses when due.

(B) “Late fee” does not include:

(i) interest on a debt;

(ii) reasonable expenses, fees, or charges incurred in the collection of unpaid rent or expenses; or

(iii) fees or charges associated with the enforcement of any other remedy provided by law or a rental agreement.

~~(2)~~(5) “Occupant” means a person, successor, assignee, agent, or representative entitled to the use of the storage space in a self-storage facility under a rental agreement to the exclusion of others.

~~(3)~~(6) “Owner” means the owner, operator, lessor, or sublessor of a self-storage facility, an agent, or any other person authorized by the owner to manage the facility or to receive rent from an occupant under a rental agreement.

(7) “Personal information” means written information about a person that is not publicly available and that readily identifies that person or is closely associated with that person, including a Social Security number, credit or debit card information, a bank account number, medical information, or passport information.

~~(4)~~(8) “Personal property” means movable property not affixed to land, and includes goods, merchandise, and household items.

~~(5)~~(9) “Rental agreement” means any a written agreement that establishes or modifies the terms, conditions, rules, or any other provision concerning the use and occupancy of a self-storage facility storage space.

~~(6)~~(10)(A) “Self-storage facility” means any real property designed and used for the purpose of renting or leasing individual storage space to ~~occupants who are to have access to such space for the purpose of storing and removing personal property~~ an occupant.

(B) A self-storage facility is not a “warehouse” as used in ~~Article 7 of the Uniform Commercial Code (U.C.C.) as codified in Title 9A V.S.A. § 7-102. If an owner issues any warehouse receipt, bill of lading, or other document of title for the personal property stored, the owner and the occupant are subject to the U.C.C., and this act does not apply.~~

(11) “Storage space” means the individual space at a self-storage facility that is rented to an occupant under a rental agreement.

§ 3902. RESIDENTIAL PURPOSES

~~(a) No occupant shall~~ An occupant shall not use storage space at a self-storage facility for residential purposes.

~~(b) No owner shall~~ An owner shall not knowingly permit the use of a storage space at a self-storage facility ~~to be used~~ for residential purposes.

§ 3903. DISCLOSURES

(a) A rental agreement shall contain the following:

(1) ~~The~~ the name and address of the owner and occupant;

(2) ~~The~~ the actual monthly occupancy charge, rent, or lease amount for the storage space provided, expressed in dollars;

(3) ~~An itemization of other charges imposed or which may be imposed in connection with~~

(A) disclosure of the charges the owner may impose for the occupancy;

(B) a description of the charges, including any security deposit and the conditions for retaining or returning the deposit;

(C) whether the charges are mandatory or optional; and

(D) the amount of each charge, expressed in dollars;

(4) ~~A statement of a provision that states:~~

(A) whether property stored in the leased storage space is or is not insured by the owner against loss or damage; and

(B) of the requirement that the occupant must provide his or her own insurance for any property stored; and

(5) ~~A statement advising notice to an occupant that:~~

(A) ~~the occupant of the existence of the lien created by this chapter;~~ this chapter creates a lien on property stored in the storage space;

(B) ~~that the owner may sell the property stored in the leased storage space may be sold to satisfy the lien; and;~~

(C) ~~that the owner shall not be~~ is not liable for damage, loss, or alienation of items of sentimental nature or value; and

(D) if the owner offers notice by electronic mail, the occupant may elect to receive notice by electronic mail only by indicating the election in the rental agreement.

(b) If a rental agreement contains a limit on the value of property that may be stored in a storage space, the limit is deemed to be the maximum value of the property in the storage space and the maximum liability of the owner for any claim.

(c)(1) An owner may impose a late fee of not more than \$20.00 or 20 percent of a rental payment, whichever is greater, for each service period that an occupant does not pay the rent, charges, fees, or expenses when due.

(2) An owner shall not impose a late fee if the occupant pays the rent, charges, fees, and expenses in full not later than five days after the due date.

(3) An owner shall not impose a late fee unless the amount of the fee and the conditions for imposing that fee are stated in the rental agreement.

(d) Except as otherwise provided in a rental agreement, an occupant has the exclusive care, custody, and control of property in a storage space until the property is sold or otherwise disposed pursuant to this chapter.

(e) The disclosures required under subdivisions (a)(4) and (a)(5) and subsections (b)–(d) of this section shall be written in bold type and of a font size equal to or greater than the general text of the agreement.

§ 3904. LIEN

~~The owner of a self-storage facility~~

(a) An owner has a possessory lien upon all personal property located in a storage space at a self-storage facility for:

(1) rent;

(2) labor;

(3) late fees or other charges, present or future, in relation to relating to the personal property; and

(4) for expenses relevant to its preservation or expenses reasonably incurred in its arising from the preservation or sale of the property pursuant to this chapter.

(b) The lien created in this section attaches as of the date the personal property is brought to or placed in a regular storage space at a self-storage facility in accordance with the provisions of a valid an occupant stores personal property in a storage space pursuant to a rental agreement.

§ 3905. ENFORCEMENT OF LIEN

~~In the event of a default under the terms of a rental agreement, the lien created under this chapter may be enforced in accordance with the provisions of this section~~ If an occupant defaults under a rental agreement, the owner may enforce the lien created in section 3904 of this title pursuant to this section.

(1) First notice of default. No Not sooner than seven days after a default, the owner shall notify the occupant ~~shall be notified~~ of the default by regular mail or electronic mail sent to ~~his or her~~ the occupant's last known address.

(2) Second notice of default.

(A) No Not sooner than 14 days after mailing of the first notice, the owner shall notify the occupant ~~shall be notified~~ of the default by certified

mail, first-class mail with a certificate of mailing, or electronic mail sent to ~~his~~ the occupant's last known address.

~~(B)~~ If the owner sent the second notice of default to the occupant by electronic mail and does not receive a response, return receipt, or delivery confirmation from the same electronic mail address within two days, then before proceeding with a sale, the owner shall send the notice to the occupant either by certified mail or by first-class mail with a certificate of mailing.

~~(C)~~ The second notice shall contain the following:

~~(A)~~(i) An itemized statement of the owner's claim showing the sum due at the time of the notice and the date when the sum became due.

~~(B)~~(ii) A brief and general description of the personal property subject to the lien. ~~There shall be no requirement~~ An owner is not required to describe the specific contents of a storage space in a self-storage facility beyond stating that it is the contents of a specific storage space in a specific self-storage facility rented by a specific occupant.

~~(C)~~(iii) A notice of denial of access to the personal property, if such denial is permitted under the terms of the rental agreement.

~~(D)~~(iv) A demand for payment within a specified time not less than ~~fifteen~~ 15 days after the mailing of the second notice of default.

~~(E)~~(v) A conspicuous statement that unless the claim is paid in full within the time stated in the notice, the personal property will be advertised for sale and sold according to law.

(3) Advertisement. Except as otherwise provided in subdivision (C) or (D) of this subdivision (3):

~~(A)~~ After the expiration of the time given in the second notice under subdivision (2) of this section, the owner shall publish an advertisement of the sale shall be published once a week for two consecutive weeks in the print or electronic version of a newspaper of general circulation where the self-storage facility is located.

~~(B)~~ The advertisement shall contain the following:

~~(A)~~(i) A a brief and general description of the personal property as provided in subdivision (2)(B) of this section;

~~(B)~~(ii) The the address of the self-storage facility and;

(iii) the number, if any, of the space where the personal property is located;

(iv) the name of the occupant; and

(v) the time, place, and manner of the sale.

~~(C) The time, place, and manner of the sale.~~ If there is no newspaper of general circulation where the self-storage facility is located, the owner shall post the advertisement shall be posted at least 15 days before the date of the sale at the town hall where the self-storage facility is located in ~~such fashion~~ the same manner as the auction sales of real property are posted.

~~(D) A sale or other disposition of goods as provided for in this chapter shall not be defeated or deemed not in compliance with this provisions of this chapter if the owner attempted, but was not able to obtain personal service on those persons entitled to notice or if the certified mail return receipt is not signed by the person to whom notice must be sent, unless the owner fails to publish in accordance with this section. As an alternative to the advertisement required in subdivisions (A)–(C) of this subdivision (3), an owner may advertise the sale of personal property in a commercially reasonable manner. For purposes of this subdivision (D), a manner of advertisement is commercially reasonable if three or more independent bidders attend or view the sale.~~

(4) Notice to other lienholders. Before the expiration of the time given in the second notice under subdivision (2) of this section, the owner shall determine whether the occupant owns any personal property subject to an active lien registered with the Vermont Secretary of State. If any such lien exists, the owner shall notify the lienholder shall be notified by certified mail not less than 21 days prior to the sale of the property. ~~Such~~ The notice shall include the following:

(A) A statement describing the property to be sold. There shall be no requirement to describe the specific contents of a storage space in a self-storage facility beyond stating that it is the contents of a specific storage space in a specific self-storage facility rented by a specific occupant.

(B) A statement of the lienholder's rights under this chapter.

(C) A statement of the time, place, and manner of the sale of the property.

(5) Delivery. For purposes of this chapter:

(A) notice by regular mail or first-class mail with a certificate of mailing is delivered when deposited with the U.S. Postal Service if the mail is properly addressed to the occupant's last known address and postage is prepaid; and

(B) notice by electronic mail is delivered when properly addressed and sent to an occupant's last known electronic mail address.

~~(6) Sale. Upon fulfillment of the notification and advertisement requirements of this section, sale of the personal property shall be permitted, provided the following conditions are met~~

(A) An owner that fulfills the notice and advertisement requirements of this section may sell personal property stored in a storage space, subject to the following conditions:

~~(A) The sale of the personal property shall take place~~

~~(i) the sale occurs not sooner than 15 days after the first publication advertisement under subdivision (3) of this section;~~

~~(B) Any sale of the personal property under this chapter shall conform~~

~~(ii) the sale conforms to the terms of all the notifications required under this section. If, or, if the sale will not or does not take place as provided for in the notifications, then the owner makes subsequent notifications shall be made in the same manner as the original notifications had been made, consistent with this section;~~

~~(iii) subject to subdivision (6)(C) of this section, the owner does not knowingly sell personal information contained in the storage space;~~

~~(C) Any sale of the personal property shall be~~

~~(iv) the sale is held at the self-storage facility, or at the nearest suitable place, or on a publicly accessible website;~~

~~(D) Any sale of the personal property shall be~~

~~(v) the owner does not purchase personal property at the sale; and~~

~~(vi) the sale is performed in a commercially reasonable manner, meaning the owner sells the goods in the usual manner in any recognized market therefor, at the price current in such market at the time of the sale; or otherwise sold in conformity with.~~

(B) For purposes of subdivision (6)(A)(vi) of this section:

(i) A sale is commercially reasonable if it conforms to commercially reasonable practices within a recognized market for the goods or among dealers in the type of goods sold; however,

(ii) The sale of more goods than apparently necessary to ensure satisfaction of the satisfy an occupant's obligation is not commercially

reasonable unless necessary due to the nature of the goods being sold or the manner in which they are customarily sold.

~~(iii)~~ The fact that an owner could obtain a better price ~~could have been obtained~~ by sale at a different time or by a different method ~~from that selected by the owner~~ is not of itself sufficient to establish that the sale was not ~~made in a commercially reasonable manner.~~

(C)(i) If an owner has a reasonable belief that storage space contains the personal information of an occupant or clients, customers, or others with whom the occupant does business, the owner shall not hold a lien sale of the personal information and may destroy the personal information without liability to any person.

(ii) Before taking possession of any personal property sold, a purchaser shall acknowledge that if any of the contents contain personal information, the purchaser will return the personal information to the owner, which the owner may destroy without liability to any person.

~~(E)(D)~~ Any Except as provided in subdivision (7) of this section, an owner shall conduct a sale or disposition of a motor vehicle shall be performed pursuant to 23 V.S.A. chapter 21 and any a sale or disposition of a vessel, snowmobile, or all-terrain vehicle shall be performed pursuant to 23 V.S.A. chapter 36.

(7) Towing.

(A) If rent, charges, fees, or expenses remain unpaid after 51 days, an owner may have a vehicle, vessel, snowmobile, trailer, or all-terrain vehicle towed away by a towing company.

(B) Not later than five days after having personal property towed pursuant to this subdivision (7), an owner shall notify the occupant by regular mail or electronic mail at the occupant's last known address and shall include the name, address, and telephone number of the towing company.

(C) An owner has no liability to any person for having property towed or for damage to the property after the towing company takes possession of the property.

~~(6)~~(8) Right of satisfaction.

(A) Before any a sale of personal property pursuant to this chapter, the occupant may pay redeem the property by paying the amount necessary to satisfy the lien in full and the reasonable expenses incurred under this section, and thereby redeem the personal property.

(B) Upon receipt of such payment, the owner shall return the personal property, and thereafter ~~the owner shall have no liability~~ is not liable to any person with respect to ~~such~~ the personal property.

~~(7)~~(9) Proceeds in excess of lien amount.

(A) ~~In the event of sale under this section, the~~ An owner that sells property pursuant to this section:

(i) may satisfy the owner's lien from the proceeds of the sale, ~~but;~~ and

(ii) shall hold the balance, if any, for delivery on demand to the occupant.

(B) If the occupant does not claim the balance of the proceeds ~~such funds shall be paid over,~~ the owner shall deliver the balance without interest to the Treasurer of the State of Vermont in accordance with 27 V.S.A. chapter 14.

~~(8)~~(10) Rights of other lienholders. The holder of any perfected lien or security interest on personal property stored in the storage unit and registered with the Vermont Secretary of State may take possession of its lien property at any time prior to sale or other disposition.

~~(9)~~(11) Rights of purchasers. A purchaser in good faith of the personal property sold to satisfy a lien, ~~as provided elsewhere in this chapter,~~ takes the property free of any rights of persons against whom the lien was valid, despite noncompliance by the owner with the requirements of this chapter.

(12) Disposal of personal property. If an owner complies with the requirements of this section and a qualified buyer does not purchase the property offered for sale, the owner may dispose of the property without liability.

(13) Liability. An owner that has complied with the applicable provisions of this chapter is not liable to an occupant, lienholder, or any other person.

§ 3906. SCOPE; SUPPLEMENTAL NATURE OF CHAPTER

(a) If an owner issues a warehouse receipt, bill of lading, or other document of title for the personal property stored in a self-storage facility, the owner and the occupant are subject to Title 9A and this chapter does not apply.

(b) Nothing in this chapter shall be construed in any manner to impair or affect the right of parties to create liens by special contract or agreement, nor shall it in any manner affect or impair other liens arising at common law or in equity, or by any statute in this State.

* * *

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

(**Committee Vote: 10-0-1**)

NOTICE CALENDAR

Committee Bill for Second Reading

H. 589

An act relating to reapportioning the initial districts of the House of Representatives.

(**Rep. Gannon of Wilmington** will speak for the Committee on Government Operations.)

Amendment to be offered by Reps. Scheuermann of Stowe and Toof of St. Albans Town to H. 589

That the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE FINDINGS

The General Assembly finds that:

(1) Pursuant to 17 V.S.A. § 1903, the State uses the U.S. decennial census data to reapportion the House of Representatives and the Senate.

(2) On October 15, 2021, the Legislative Apportionment Board voted 4-3-0 to approve an all single-member district map for distribution to cities, towns, and boards of civil authority as the Board's tentative House proposal prepared pursuant to 17 V.S.A. § 1905 and 2021 Acts and Resolves No. 11.

(3) On November 23, 2021, the Legislative Apportionment Board voted 4-3-0 to submit a revised all single-member district map to the General Assembly as the Board's recommended reapportionment map.

(4) On November 30, 2021, the Legislative Apportionment Board submitted the revised all single-member district map to the Clerk of the House as the Board's proposed plan for reapportionment of the House of Representatives pursuant to 17 V.S.A. § 1906.

Sec. 2. REAPPORTIONMENT; INITIAL HOUSE DISTRICTS

Notwithstanding any provision of law to the contrary, the General Assembly shall propose the all single-member districts reapportionment proposal submitted by the Legislative Apportionment Board to the Clerk of the

House on November 30, 2021, to cities, towns, and boards of civil authority for purposes of taking testimony and requesting feedback on the reapportionment of the House of Representatives prior to the enactment of final districts.

Sec. 3. REAPPORTIONMENT; TIMELINE

Notwithstanding 2021 Acts and Resolves No. 11 or any other provision of law to the contrary, cities, towns, and boards of civil authority shall submit any proposals regarding the reapportionment of the House of Representatives to the House Committee on Government Operations on or before February 15, 2022.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

Action Postponed Until January 14, 2022

Senate Proposal of Amendment

H. 157

An act relating to registration of construction contractors

The Senate proposes to the House to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds that:

(1) There is currently no master list of residential construction contractors operating in the State.

(2) There is no standard process for determining or adjudicating construction contract fraud complaints either on the part of contractors or consumers.

(3) Public authorities have no mechanism to contact all contractors when necessary to provide updates to public health requirements, safe working protocols, codes and standards, and available trainings and certifications.

(4) Wide dissemination of information on codes, standards, and trainings is vital to improving construction techniques throughout the State's construction industry. Since building thermal conditioning represents over one-quarter of the State's greenhouse gas emissions, improving energy performance is a key strategy for meeting the requirements of the Global Warming Solutions Act, 2020 Acts and Resolves No. 153.

(5) While registration is not licensure and confers no assurance of

competence, consumers have no way of knowing whether a contractor is operating legally or has been subject to civil claims or disciplinary actions.

(6) A noncommercial, standardized public listing will provide contractors an opportunity to include in their record optional third-party, State-sanctioned certifications.

Sec. 2. 3 V.S.A. § 122 is amended to read:

§ 122. OFFICE OF PROFESSIONAL REGULATION

The Office of Professional Regulation is created within the Office of the Secretary of State. The Office of Professional Regulation shall have a director who ~~shall be~~ is an exempt employee appointed by the Secretary of State ~~and shall be an exempt employee.~~ The following boards or professions are attached to the Office of Professional Regulation:

* * *

(50) Residential Contractors

Sec. 3. 26 V.S.A. chapter 107 is added to read:

CHAPTER 107. RESIDENTIAL CONTRACTORS

Subchapter 1. General Provisions

§ 5501. REGISTRATION REQUIRED

(a) A person shall register with the Office of Professional Regulation prior to contracting with a homeowner to perform residential construction in exchange for consideration of more than \$2,500.00, including labor and materials.

(b) Unless otherwise exempt under section 5502 of this title, as used in this chapter, “residential construction” means to build, demolish, or alter a residential dwelling unit, or a building or premises with four or fewer residential dwelling units, in this State, and includes interior and exterior construction, renovation, and repair; painting; paving; roofing; weatherization; installation or repair of heating, plumbing, solar, electrical, water, or wastewater systems; and other activities the Office specifies by rule consistent with this chapter.

§ 5502. 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) a professional engineer, licensed architect, or tradesperson

licensed, registered, or certified by the Department of Public Safety acting within the scope of his or her license, registration, or certification; or

(B) a business that performs residential construction if the work is performed primarily by or under the direct supervision of one or more employees who are individually exempt from registration under subdivision (2)(A) of this section;

(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; or

(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, as specified by rule.

§ 5503. 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.

(2) The provisions of 3 V.S.A. § 129a, with respect to a registration, shall be construed in a manner consistent with the limitations of this subsection.

(b) The system of voluntary certification established in this chapter is intended to provide consumers and contractors with a publicly available, noncommercial venue for contractors to list optional approved certifications. The Director of Professional Regulation, in consultation with public safety officials and recognized associations or boards of builders, remodelers, architects, and engineers, may:

(1) adopt rules providing for the issuance of voluntary certifications, as defined in subdivision 3101a(1) of this title, that signify demonstrated competence in particular subfields and specialties related to residential construction;

(2) establish minimum qualifications, and standards for performance and conduct, necessary for certification; and

(3) discipline a certificant for violating adopted standards or other law,

with or without affecting the underlying registration.

Subchapter 2. Administration

§ 5505. DUTIES OF THE DIRECTOR

(a) The Director of Professional Regulation shall:

(1) provide information to the public concerning registration, certification, appeal procedures, and complaint procedures;

(2) administer fees established under this chapter;

(3) receive applications for registration or certification, issue registrations and certifications to applicants qualified under this chapter, deny or renew registrations or certifications, and issue, revoke, suspend, condition, and reinstate registrations and certifications as ordered by an administrative law officer; and

(4) prepare and maintain a registry of registrants and certificants.

(b) The Director, after consultation with the advisors appointed pursuant to section 5506 of this title, shall adopt rules to implement this chapter.

§ 5506. ADVISORS

(a) The Secretary of State shall appoint two persons pursuant to 3 V.S.A. § 129b to serve as advisors in matters relating to residential contractors and construction.

(b) To be eligible to serve, an advisor shall:

(1) register under this chapter;

(2) have at least three years' experience in residential construction immediately preceding appointment; and

(3) remain active in the profession during his or her service.

(c) The Director of Professional Regulation shall seek the advice of the advisors in implementing this chapter.

§ 5507. 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.

Subchapter 3. Registrations

§ 5508. ELIGIBILITY

To be eligible for registration, the Director of Professional Regulation shall find that the applicant is in compliance with the provisions of this chapter and applicable State law and has satisfied any judgment order related to the provision of professional services to a homeowner.

§ 5509. REQUIREMENTS OF REGISTRANTS

(a) Insurance. A person registered under this chapter shall maintain minimum liability insurance coverage 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 \$2,500.00.

(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 documented, as agreed by the parties.

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

(c) Down payment.

(1) If a contract specifies a maximum price for all work and materials or a statement that billing and payment will be made on a time and materials

basis, not to exceed a maximum price, the contract may require a down payment of up to one-half of the cost of labor to the consumer, or one-half of the price of materials, whichever is greater.

(2) If 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 as negotiated by the parties.

§ 5510. PROHIBITIONS AND REMEDIES

(a) A person who does not register as required pursuant to this chapter may be subject to an injunction or a civil penalty, or both, for unauthorized practice as provided in 3 V.S.A. § 127(b).

(b) The Office of Professional Regulation may discipline a registrant or certificant for unprofessional conduct as provided in 3 V.S.A. § 129a, except that 3 V.S.A. § 129a(b) does not apply to a registrant.

(c) The following conduct by a registrant, certificant, applicant, or person who later becomes an applicant constitutes unprofessional conduct:

(1) failure to enter into a written contract when required by this chapter;

(2) failure to maintain liability or workers' compensation insurance as required by law;

(3) committing a deceptive act in commerce in violation of 9 V.S.A. § 2453;

(4) falsely claiming certification under this chapter, provided that this subdivision does not prevent accurate and nonmisleading advertising or statements related to credentials that are not offered by this State; and

(5) selling or fraudulently obtaining or furnishing a certificate of registration, certification, license, or any other related document or record, or assisting another person in doing so, including by reincorporating or altering a trade name for the purpose or with the effect of evading or masking revocation, suspension, or discipline against a registration issued under this chapter.

Sec. 4. IMPLEMENTATION

(a) Notwithstanding any contrary provision of 26 V.S.A. chapter 107:

(1) The initial biennial registration term for residential contractors pursuant to 26 V.S.A. chapter 107 shall begin on April 1, 2022.

(2) The Secretary of State may begin receiving applications for the initial registration term on December 1, 2021.

(3)(A) The registration fee for individuals who submit complete registration requests between December 1, 2021 and March 31, 2022 is \$25.00 and between April 1, 2022 and March 31, 2023, the fee is \$50.00.

(B) The registration fee for business organizations that submit complete registration requests between December 1, 2021 and March 31, 2022 is \$175.00 and between April 1, 2022 and March 31, 2023, the fee is \$200.00.

(4) Prior to April 1, 2023, the Office of Professional Regulation shall not take any enforcement action for unauthorized practice under 26 V.S.A. § 5510(a) against a residential contractor who fails to register as required by this act.

(b) On or before July 1, 2022, the Director of Professional Regulation shall establish an initial set of voluntary certifications, to include at minimum OSHA standards on construction projects and components of energy-efficient “green” building for insulators, carpenters, and heating and ventilation installers.

(c) The Office of Professional Regulation shall adopt and publish model contract provisions to be available to residential contractors and consumers.

(d) The Office of Professional Regulation shall collaborate with the Department of Public Safety and interested stakeholders to prepare and disseminate information, which the Office shall provide upon registration or certification, that:

(1) notifies registrants and certificants that the authorized practice of certain professions is subject to regulation by the Department of Public Safety, including through the licensure, registration, or certification of persons performing certain plumbing and electrical work; and

(2) specifies that registration or certification with the Office of Professional Regulation does not authorize a registrant or certificant to perform any work that requires a separate licensure, registration, or certification from the Department of Public Safety.

Sec. 5. CREATION OF POSITIONS WITHIN THE OFFICE OF PROFESSIONAL REGULATION; LICENSING

(a) There are created within the Secretary of State’s Office of Professional Regulation one new position in licensing and one new position in enforcement.

(b) In fiscal year 2022, the amount of \$200,000.00 in Office of Professional Regulation special funds is appropriated to the Secretary of State to fund the positions created in subsection (a) of this section.

Sec. 6. SECRETARY OF STATE; STATUS REPORT

On or before January 15, 2023, the Office of Professional Regulation shall report to the House Committee on General, Housing and Military Affairs and on Government Operations and to the Senate Committees on Economic Development, Housing and General Affairs and on Government Operations concerning the implementation of 26 V.S.A. chapter 107, including:

- (1) the number of registrations and certifications;
- (2) the resources necessary to implement the chapter;
- (3) the number and nature of any complaints or enforcement actions;
- (4) the potential design and implementation of a one-stop portal for contractors and consumers; and
- (5) any other issues the Office deems appropriate.

Sec. 7. EFFECTIVE DATE

This act shall take effect on July 1, 2021.

(For text see House Journal June 24, 2021)

Action Postponed Until January 20, 2022

Favorable

S. 78

An act relating to binding interest arbitration for employees of the Vermont Judiciary

Rep. Walz of Barre City, for the Committee on General, Housing, and Military Affairs, recommends that the bill ought to pass in concurrence.

(Committee Vote:7-4-0)

(For text see Senate Journal March 12, 2021)

Public Hearings

Public Hearing on PR 2 (Proposal 2) - Proposed Amendment to the Constitution of the State of Vermont Subject: Declaration of rights; clarifying the prohibition on slavery and indentured servitude - Hearing to be held in House Chamber on January 20, 2022 from 6:00 PM to 8:00 PM - hearing held by House Committee on Government Operations

Information Notice

Grants and Positions that have been submitted to the Joint Fiscal Committee by the Administration, under 32 V.S.A. §5(b)(3)(D):

JFO #3085 – Two (2) limited-service positions to the VT Department of Disabilities, Aging and Independent Living, Division of Vocational Rehabilitation from the Centers for Medicare and Medicaid Services. One (1) VR Program Coordinator to oversee at statewide scholarship, and mentor program for personal care attendants. One (1) VR Assistive Technology Specialist for vocational rehabilitation clients including transition age youth (high school students). Both positions funded through 9/30/2025 by previously approved grant JFO #2510.

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