

1 H.157

2 Representative Troiano moves that the House concur in the Senate proposal  
3 of amendment with further proposals of amendment as follows:

4 First: In Sec. 2, 3 V.S.A. § 122, by striking out “(50)” and inserting in lieu  
5 thereof “(51)”

6 Second: By striking out Secs. 3–7 in their entirety and inserting in lieu  
7 thereof new Secs. 3–7 to read as follows:

8 Sec. 3. 26 V.S.A. chapter 106 is added to read:

9 CHAPTER 106. RESIDENTIAL CONTRACTORS

10 Subchapter 1. General Provisions

11 § 5501. REGISTRATION REQUIRED

12 (a) A person shall register with the Office of Professional Regulation prior  
13 to contracting with a homeowner to perform residential construction in  
14 exchange for consideration of more than \$3,500.00, including labor and  
15 materials.

16 (b) Unless otherwise exempt under section 5502 of this title, as used in this  
17 chapter, “residential construction” means to build, demolish, or alter a  
18 residential dwelling unit, or a building or premises with four or fewer  
19 residential dwelling units, in this State, and includes interior and exterior  
20 construction, renovation, and repair; painting; paving; roofing; weatherization;  
21 installation or repair of heating, plumbing, solar, electrical, water, or

1 wastewater systems; and other activities the Office specifies by rule consistent  
2 with this chapter.

3 § 5502. EXEMPTIONS

4 This chapter does not apply to:

5 (1) an employee acting within the scope of his or her employment for a  
6 business organization registered under this chapter;

7 (2)(A) a professional engineer, licensed architect, or a tradesperson  
8 licensed, registered, or certified by the Department of Public Safety acting  
9 within the scope of his or her license, registration, or certification; or

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

14 (3) delivery or installation of consumer appliances, audio-visual  
15 equipment, telephone equipment, or computer network equipment;

16 (4) landscaping;

17 (5) work on a structure that is not attached to a residential building; or

18 (6) work that would otherwise require registration that a person  
19 performs in response to an emergency, provided the person applies for  
20 registration within a reasonable time after performing the work.

21 § 5503. MANDATORY REGISTRATION AND VOLUNTARY

1                   CERTIFICATION DISTINGUISHED

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

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

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

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

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

1           (3) discipline a certificant for violating adopted standards or other law,  
2           with or without affecting the underlying registration.

3                                   Subchapter 2. Administration

4           § 5505. DUTIES OF THE DIRECTOR

5           (a) The Director of Professional Regulation shall:

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

8                   (2) administer fees established under this chapter;

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

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

15           (b) The Director, after consultation with an advisor appointed pursuant to  
16           section 5506 of this title, may adopt rules to implement this chapter.

17           § 5506. ADVISORS

18           (a) The Secretary of State shall appoint two persons pursuant to 3 V.S.A.  
19           § 129b to serve as advisors in matters relating to residential contractors and  
20           construction.

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

1           (1) register under this chapter;

2           (2) have at least three years' experience in residential construction

3 immediately preceding appointment; and

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

5           (c) The Director of Professional Regulation shall seek the advice of the

6 advisors in implementing this chapter.

7 § 5507. FEES

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

10           (1) Registration, individual: \$75.00.

11           (2) Registration, business organization: \$250.00.

12           (3) State certifications: \$75.00 for a first certification and \$25.00 for

13 each additional certification.

14                               Subchapter 3. Registrations

15 § 5508. ELIGIBILITY

16           To be eligible for registration, the Director of Professional Regulation shall  
17 find that the applicant is in compliance with the provisions of this chapter and

18 applicable State law and has satisfied any judgment order related to the

19 provision of professional services to a homeowner.

20 § 5509. REQUIREMENTS OF REGISTRANTS

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

5       (b) Writing.

6           (1) A person registered under this chapter shall execute a written  
7       contract prior to receiving a deposit or commencing residential construction  
8       work if the estimated value of the labor and materials exceeds \$3,500.00.

9           (2) A contract shall specify:

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

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

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

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

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

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

1           (D) Change order provision. A description of how and when  
2           amendments to the contract may be approved and documented, as agreed by  
3           the parties.

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

6           (c) Down payment.

7           (1) If a contract specifies a maximum price for all work and materials or  
8           a statement that billing and payment will be made on a time and materials  
9           basis, not to exceed a maximum price, the contract may require a down  
10          payment of up to one-half of the cost of labor to the consumer, or one-half of  
11          the price of materials, whichever is greater.

12          (2) If a contract specifies that billing and payment will be made on a time  
13          and materials basis and that there is no maximum price, the contract may  
14          require a down payment as negotiated by the parties.

15          § 5510. PROHIBITIONS AND REMEDIES

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

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

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

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

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

6            (3) committing a deceptive act in commerce in violation of 9 V.S.A.  
7        § 2453;

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

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

16       Sec. 4. IMPLEMENTATION

17           (a) Notwithstanding any contrary provision of 26 V.S.A. chapter 106:

18           (1) The initial biennial registration term for residential contractors  
19       pursuant to 26 V.S.A. chapter 106 shall begin on April 1, 2023.

20           (2) The Secretary of State may begin receiving applications for the  
21       initial registration term on December 1, 2022.



1           (3)(A) The registration fee for individuals who submit complete  
2           registration requests between December 1, 2022 and March 31, 2023 is \$25.00  
3           and between April 1, 2023 and March 31, 2024, the fee is \$50.00.

4           (B) The registration fee for business organizations that submit  
5           complete registration requests between December 1, 2022 and March 31, 2023  
6           is \$175.00 and between April 1, 2023 and March 31, 2024, the fee is \$200.00.

7           (4) Prior to April 1, 2024, the Office of Professional Regulation shall  
8           not take any enforcement action for unauthorized practice under 26 V.S.A.  
9           § 5510(a) against a residential contractor who fails to register as required by  
10          this act.

11          (b) On or before July 1, 2023, the Director of Professional Regulation shall  
12          establish an initial set of voluntary certifications, to include at minimum  
13          OSHA standards on construction projects and components of energy-efficient  
14          “green” building for insulators, carpenters, and heating and ventilation  
15          installers.

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

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

1       (b) In fiscal year 2023, the amount of \$200,000.00 in Office of Professional  
2       Regulation special funds is appropriated to the Secretary of State to fund the  
3       positions created in subsection (a) of this section.

4       Sec. 6. SECRETARY OF STATE; STATUS REPORT

5       On or before January 15, 2024, the Office of Professional Regulation shall  
6       report to the House Committees on General, Housing, and Military Affairs and  
7       on Government Operations and to the Senate Committees on Economic  
8       Development, Housing and General Affairs and on Government Operations  
9       concerning the implementation of 26 V.S.A. chapter 106, including:

10       (1) the number of registrations and certifications;

11       (2) the resources necessary to implement the chapter;

12       (3) the number and nature of any complaints or enforcement actions;

13       (4) the potential design and implementation of a one-stop portal for  
14       contractors and consumers; and

15       (5) any other issues the Office deems appropriate.

16       Sec. 7. EFFECTIVE DATE

17       This act shall take effect on July 1, 2022.

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(Committee vote: \_\_\_\_\_)

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Representative \_\_\_\_\_

FOR THE COMMITTEE