

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 (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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7 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE