



State of Vermont
Office of the Secretary of State

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January 13, 2022

To: House Committee on General, Housing, and Military Affairs

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

Re: H.157, as amended by the Senate

Thank you for the opportunity to testify before you this afternoon. Below I have outlined the Office of Professional Regulation’s position on the changes made to H.157 at the end of last session.

OPR Position Senate Amendment to H.157			
Page #	Section	Senate Amendment	OPR Position
Page 3	Sec. 3 26 V.S.A § 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 \$3,500.00 <u>\$2,500.00</u> , including labor and materials.	Senate lowered the contract threshold from \$3,500 to \$2,500.	This is a highly debated policy decision. OPR can implement the registration with either threshold. The lower threshold will protect more consumers and will require more contractors to register.
Page 3	Sec. 3 26 V.S.A § 5502 EXEMPTIONS This Chapter does not apply to: ... <u>(2)(A) a professional engineer, licensed architect, or a 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;</u>	This additional language clarifies: 1) That individuals registered or certified by DPS are not required to register; AND 2) That a business where the work is primarily performed by or under the direct supervision of someone exempt from the chapter will not have to register.	OPR supports this change. It was not the intent to dually regulate professions that are regulated by DPS. OPR will clearly point consumers to DPS if they are looking for a DPS professional.

Page 8	<p>Sec. 3 26 V.S.A. § 5509. REQUIREMENTS OF REGISTRANTS</p> <p>(D) Change order provision. A description of how and when amendments to the contract may be approved and recorded <u>documented</u>, as agreed by the parties.</p> <p>(3) The parties shall record <u>document</u> an amendment to the contract in a signed writing.</p> <p>(c) Down payment.</p> <p>(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 contract price or of the price of materials, <u>whichever is greater cost of labor to the consumer, or one-half of the price of materials, whichever is greater.</u></p>	<p>The Senate changes:</p> <p>1) remove recorded and instead use document; and</p> <p>2) changes the down payment provision to half of the cost of labor or half of the cost of materials.</p>	<p>OPR supports the Senate changes.</p> <p>“Document” is a clearer word to describe the statutory intent of this section.</p> <p>The modification on down payments was based on testimony that this provision could be confusing to the contractor and the homeowner. This modification also reduces the amount of a down payment because it is based on only half of the cost of materials, not the whole cost.</p>
Page 9	<p>Sec. 3 § 5510. PROHIBITIONS AND REMEDIES</p> <p>(a) A person who does not register as required pursuant to this chapter may be subject to <u>an injunction</u> or a civil penalty, <u>or both</u>, for unauthorized practice as provided in 3 V.S.A. § 127(b).</p>	<p>This amendment adds the authority to seek an injunction.</p>	<p>OPR support this inclusion. It conforms with our authority in 3 V.S.A. § 127(b).</p>
	<p>Sec. 5. CREATION OF POSITIONS WITHIN THE OFFICE OF PROFESSIONAL REGULATION; LICENSING</p> <p>(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.</p> <p>(b) In fiscal year 2022, the amount of \$200,000.00 in <u>Office of Professional Regulation</u> special funds is appropriated to the Secretary of State to fund the positions created in subsection (a) of this section.</p>	<p>This change clarifies which special fund the appropriation is being made to.</p>	<p>OPR supports this change.</p>
Page	Sec. 6. SECRETARY OF STATE; STATUS	This amendment adds a	OPR is neutral on this

11	<p>REPORT</p> <p>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:</p> <p>(1) the number of registrations and certifications;</p> <p>(2) the resources necessary to implement the chapter;</p> <p>(3) the number and nature of any complaints or enforcement actions;</p> <p><u>(4) the potential design and implementation of a one-stop portal for contractors and consumers;</u> and</p> <p>(5) any other issues the Office deems appropriate.</p>	factor that OPR should report on after the program is operational.	amendment. At our core, OPR is a licensing and enforcement agency. We are not a substitute for 3 rd party sites such as Angie's List or Front Porch Forum. That being said, we are interested in how our function in the marketplace will be used by consumers and home contractors.
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Requested Modifications on Senate Version of H.157

Page 10-11	<p>Sec. 4. IMPLEMENTATION</p> <p>(a) Notwithstanding any contrary provision of 26 V.S.A. chapter 107:</p> <p>(1) The initial biennial registration term for residential contractors pursuant to 26 V.S.A. chapter 107 shall begin on April 1, 2022 <u>2023</u>.</p> <p>(2) The Secretary of State may begin receiving applications for the initial registration term on December 1, 2021 <u>2022</u>.</p> <p>(3)(A) The registration fee for individuals who submit complete registration requests between December 1, 2021 <u>2022</u> and March 31, 2022 <u>2023</u> is \$25.00 and between April 1, 2022 <u>2023</u> and March 31, 2023 <u>2024</u>, the fee is \$50.00.</p> <p>(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 <u>2023</u> and March 31, 2023 <u>2024</u>, the fee</p>		OPR requests that the implementation dates be pushed out a full year.
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is \$200.00.

(4) Prior to April 1, ~~2023~~ 2024, 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~~ 2023, 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.

Sec. 6. SECRETARY OF STATE; STATUS REPORT

On or before January 15, ~~2023~~ 2024, 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.