





1 [A person shall register with the Office of Professional Regulation prior to  
2 offering or contracting with a homeowner to perform construction,  
3 remodeling, or home improvement work on a residential dwelling unit or on a  
4 building or premises with four or fewer residential dwelling units, in exchange  
5 for consideration of more than \$2,000.00, including labor and materials.]

6  
7 (b) Unless otherwise exempt under section 5502 of this title, as used in this  
8 chapter, “residential construction” means to build, demolish, or alter a  
9 residential dwelling unit, or a building or premises with four or fewer  
10 residential dwelling units, in this State, and includes interior and exterior  
11 construction, renovation, and repair; painting; paving; roofing; weatherization;  
12 installation or repair of heating, plumbing, solar, electrical, water, or  
13 wastewater systems; and other activities the Office specifies by rule consistent  
14 with this chapter.

15 § 5502. EXEMPTIONS

16 This chapter does not apply to:

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

19 (2) a professional engineer, licensed architect, or a tradesperson licensed  
20 by the Department of Public Safety acting within the scope of his or her  
21 license;

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

3           (4) landscaping;

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

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

8           § 5503. MANDATORY REGISTRATION AND VOLUNTARY

9                   CERTIFICATION DISTINGUISHED

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

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

17           (b) The system of voluntary certification established in this chapter is  
18           intended to provide consumers and contractors with a publicly available,  
19           noncommercial venue for contractors to list optional approved certifications.

20           The Director of Professional Regulation, in consultation with public safety

1 officials and recognized associations or boards of builders, remodelers,  
2 architects, and engineers, may:

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

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

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

11 Subchapter 2. Administration

12 § 5505. DUTIES OF THE DIRECTOR

13 (a) The Director of Professional Regulation shall:

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

16 (2) administer fees established under this chapter;

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

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

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

4           § 5506. ADVISORS

5           (a) The Secretary of State shall appoint two persons pursuant to 3 V.S.A.  
6 § 129b to serve as advisors in matters relating to residential contractors and  
7 construction.

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

9                 (1) register under this chapter;

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

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

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

15           § 5507. FEES

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

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

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

20                 (3) State certifications: \$75.00 for a first certification and \$25.00 for  
21 each additional certification.

1 Subchapter 3. Registrations

2 § 5508. ELIGIBILITY

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

7 § 5509. REQUIREMENTS OF REGISTRANTS

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

12 (b) Writing.

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

16 [\$1,000].

17 (2) A contract shall specify:

18 (A) Price. One of the following provisions for the price of the  
19 contract:

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

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

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

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

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

8                   (D) Change order provision. A description of how and when  
9 amendments to the contract may be approved and recorded.

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

12                  (c) Down payment.

13                   (1) If a contract specifies a maximum price for all work and materials or  
14 a statement that billing and payment will be made on a time and materials  
15 basis, not to exceed a maximum price, the contract may require a down  
16 payment of up to one-half of the contract price or of the price of materials,  
17 whichever is greater.

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

1 *[(c) Down payment. Unless a contract specifies that billing and payment*  
2 *will be made on a time and materials basis and that there is no maximum*  
3 *price, the contract may require a down payment of up to one-third of the*  
4 *contract price, or of the price of materials, whichever is greater.]*

5 § 5510. PROHIBITIONS AND REMEDIES

6 (a) A person who does not register as required pursuant to this chapter may  
7 be subject to a civil penalty for unauthorized practice as provided in 3 V.S.A. §  
8 127(b).

9 *[(a) A person who does not register pursuant to this chapter when required*  
10 *engages in unauthorized practice pursuant to 3 V.S.A. § 127.]*

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

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

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

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

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

20 § 2453;

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

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

9           Sec. 4. IMPLEMENTATION

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

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

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

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

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

1           (4) Prior to April 1, 2023, the Office of Professional Regulation shall  
2           not take any enforcement action for unauthorized practice under 26 V.S.A.  
3           § 5510(a) against a residential contractor who fails to register as required by  
4           this act.

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

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

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

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

17           *[(a) There are created within the Secretary of State’s Office of Professional*  
18           *Regulation two new positions in the licensing division.*

19           *(b) Any funding necessary to support the positions created in subsection (a)*  
20           *of this section and the implementation of 26 V.S.A. chapter 105 created in*

1 Sec. 9 of this act shall be derived from the Office's Professional Regulatory  
2 Fee Fund and not from the General Fund.]

3  
4 Sec. 6. SECRETARY OF STATE; STATUS REPORT

5 On or before January 15, 2023, the Office of Professional Regulation shall  
6 report to the House Committee 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 107, 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 and

14 (4) any other issues the Office deems appropriate.

15 Sec. 7. EFFECTIVE DATE

16 This act shall take effect on July 1, 2021.

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

5

\_\_\_\_\_

6

Representative \_\_\_\_\_

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FOR THE COMMITTEE