



STATE OF MAINE
DEPARTMENT OF PROFESSIONAL
AND FINANCIAL REGULATION
35 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0035

Janet T. Mills
Governor

Anne L. Head
Commissioner

December 1, 2021

Senator Chip Curry, Senate Chair
Representative Tiffany Roberts, House Chair
Joint Standing Committee on Innovation, Development, Economic Advancement and
Business
100 State House Station
Augusta, Maine 04333-0100

*RE: Resolve, Directing the Department of Professional and Financial
Regulation to Develop a Draft Registration Program for General Contractors for Home
Improvement and Construction*

Dear Senator Curry, Representative Roberts, and Members of the Committee:

Pursuant to Public Law 2021 Chapter 76 the Department of Professional and Financial
Regulation submits the attached draft registration program for residential contractors.
Please note that this draft is in response to the Resolve's directive and does not represent
the views of the Department or the Administration.

I look forward to seeing you all in January. Until then, best wishes for a happy and healthy
holiday season.

Sincerely,

A handwritten signature in cursive script that reads "Anne L. Head".

Anne L. Head

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“An Act to Require Registration by General Contractors for Home Improvement and Construction”

Sec. 1. Title. This chapter may be known and cited as the “Residential Construction Contractor Registration Act.”

Sec. 2. Definitions. As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Registrant or Registered Residential Construction Contractor. “Registrant or Registered Residential Construction Contractor” means a person who applies for and obtains registration under this chapter.
2. Residential construction contractor. “Residential construction contractor” means a person who undertakes, offers to undertake or submits a bid for a residential construction contracts totaling more than \$5,000.
3. Home Improvement. " Home improvement" includes building, altering or repairing a residential structure such as:
 - A. Fixing, replacing, altering, converting, modernizing, improving or making an addition to real property primarily designed or used as a residence.
 - B. Structural work and the construction, installation, replacement and improvement of roofing, inground swimming pools, porches, kitchens, chimneys, chimney liners, garages, fallout shelters, central air conditioning, central heating, heat pumps, boilers, furnaces, hot water heaters, electric wiring, sewers, plumbing fixtures, storm doors, storm windows or siding and other improvements to structures within the residence or upon the land adjacent to the residence.
 - C. Exclusions. “Home improvement” does not include landscaping; interior painting or wall covering; finished floor covering, including but not limited to carpeting, vinyl floor covering or tile; fencing or freestanding masonry walls; installation of aboveground swimming pools; shutter or awning installation; installation of ground-level patios; or asphalt and driveway installation and maintenance.
4. Person. “Person” means any natural person, corporation, partnership or other business entity.
5. Residential construction contract. “Residential construction contract” means any contract to provide home improvement services subject to Title [10 MRSA §1487](#).

6. Residential structure or Dwelling. “Residential structure” or “Dwelling” means a residential structure that contains one to 4 units, including an individual condominium unit, cooperative unit or, if used as a residence, manufactured housing;
7. Department. “Department” means the Department of Professional and Financial Regulation.

Sec. 3. Scope. This chapter applies to residential construction contractors who undertake, offer to undertake, or submit a bid for a residential construction contracts totaling more than \$5,000.

Registration confers no assurance of competence, but it offers consumers an opportunity to confirm whether the contractor is operating legally, whether they have certain insurances and whether they have been subject to claims related to fraud, theft, deception, breach of contract, and other violations that may have a bearing on the integrity of the contractor.

Sec. 4. Exemptions. The following persons are exempt from this chapter:

1. Any person who builds a dwelling or performs any home improvement on any dwelling that is intended to be used as the individual's residence unless the primary purpose of the structure is a commercial enterprise;
2. Engineers and architects. Professional engineers and architects licensed under Title 32, Chapters 19 and 3-A, respectively.
3. Oil and solid fuel technicians; propane and natural gas technicians. Oil and solid fuel technicians and propane and natural gas technicians licensed under Title 32, Chapters 33 and 130, respectively.
4. Manufactured housing licensees. Manufacturers and dealers of manufactured housing licensed under Title 9, Chapter 591.
5. Plumbers and electricians. Plumbers and electricians licensed under Title 32, Chapters 17 and 49, respectively.
6. Employees. Persons acting within the scope of their employment under the authority of a registered residential construction contractor.
7. Subcontractors. Persons or entities working as a subcontractor under a contract with the registered residential construction contractor.
8. Any person who performs home improvement work in response to an emergency, provided the person applies for registration within a reasonable time after performing the work.
9. Individuals who build, alter or repair building used for commercial or business purposes.

Sec. 4. Registration Required.

A person who undertakes, offers to undertake, or submits a bid for a residential construction contract totaling more than \$5,000 must register with the department in the manner described in this chapter before acting as a registered residential construction contractor. No person may act as a registered residential construction contractor in the absence of a current, valid registration.

Sec. 5. Registration Process

1. Electronic format. The entire registration shall be conducted electronically via the Department’s online application process. This includes, but is not limited to, application,

registration, renewal and payment by the registrant; all correspondence and notices relating to registration; and issuance of registration.

2. Application. The department shall prescribe the form of electronic applications. The applicant must provide the following information and must certify that all information provided is true, accurate and complete:
 - A. Name, physical address, postal address, email address and telephone number of the applicant;
 - B. If the applicant is an individual, their date of birth;
 - C. If the applicant is an entity other than an individual,
 - i. the applicant's employer identification number and the name of the individual authorized to file the application on behalf of the applicant;
 - ii. If the applicant is a corporation or limited liability company, the date and state of incorporation and the name, physical address, postal address and telephone number of individuals with the authority to bind the organization;
 - iii. If the applicant is a partnership or limited liability partnership, the state where the partnership agreement is filed.
 - D. Any web site or business-related social media maintained by or for the benefit of the applicant;
 - E. Number of years in providing home improvement services;
 - F. Information for the X year period immediately preceding application relating to any criminal convictions, guilty pleas or no contest pleas of the applicant or any officer, director or general partner of the applicant relating to fraud, false statement or omission, wrongful taking of property, bribery, perjury or conspiracy to commit any of these crimes, including any such convictions, guilty pleas or no contest pleas in a military court in Maine or any other state;
 - G. Information for the 10 year period immediately preceding application relating to any bankruptcy petitions filed by or against the applicant, any business with which the applicant was associated, or any officer, director or general partner of the applicant in Maine or any other state;
 - H. Information for the X year period immediately preceding application relating to any currently outstanding judgments or liens against the applicant, any business with which the applicant was associated, or any officer, director or general partner of the applicant in Maine or any other state;
 - I. The insurance company name and policy number of the applicant's workers compensation policy.
 - J. The insurance company name and policy number of the applicant's liability insurance policy, if any.
 - K. Information about the status of all professional or occupational licenses and registrations in all jurisdictions in which the applicant holds or has held a license within the past 10 years. For purposes of this section, an applicant may only affirm that a license is in "good standing" in another jurisdiction, if the applicant:

- i. does not have a complaint, allegation or investigation pending, and
 - ii. does not have a license that is suspended or subject to practice restrictions, and
 - iii. has not surrendered the license or had the license revoked.
 - L. An acknowledgement that the applicant is required to comply with all provisions of [10 MRSA §1487](#) governing home construction contracts.
3. Public posting of registrants.
 - A. The department shall make registrant information available on its publicly accessible website.
 - B. The department shall include notice on its publicly accessible website that the information supplied by the registrant is not validated by the department.
4. Registration term; renewal. All registrations issued pursuant to this chapter expire on January 31 of each year.

Sec. 8. Penalties

The following are violations Unfair Trade Practices Act, Title 5, Chapter 10. 12:

1. Acting as residential construction contractor without registering as a residential construction contractor is a violation of the Unfair Trade Practices Act, Title 5, Chapter 10.
2. Failure to use a written contract and change order required by 10 MRSA §1487
3. Submitting false information to the Department in the course of applying for or renewing a registration

Sec. 9. Fees

1. Registration and renewal fee. A registration fee of \$X shall be paid in an electronic format acceptable to the Department upon application. A separate registration fee must be paid for each annual registration period.

Summary

This bill establishes a mandatory registration process for residential construction contractors intended to protect consumers from dishonest or disreputable residential construction contractors. Registration confers no assurance of competence but it offers consumers an opportunity to confirm whether the contractor is operating legally, whether they have certain insurances and whether they have been subject to claims related to fraud, theft, deception, breach of contract, and other violations that may have a bearing on the integrity of the contractor.