

**STATE OF RHODE ISLAND AND  
PROVIDENCE PLANTATIONS  
CONTRACTORS' REGISTRATION  
AND LICENSING BOARD**



**TITLE 5**

**CHAPTER 65**

**DEPARTMENT OF ADMINISTRATION**

**BUILDING CODE COMMISSION**

**CONTRACTORS' REGISTRATION AND LICENSING BOARD**

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# TITLE 5 Businesses and Professions

## *CHAPTER 5-65 Contractors' Registration and Licensing Board*

**§ 5-65-1. Definitions.** – As used in this chapter:

(1) "Board" means the contractors' registration and licensing board established pursuant to the provisions of Rhode Island general laws § 5-65-14 or its designees.

(2) "Commission" means the building code commission supportive of the contractors' registration and licensing board.

(3) (i) "Contractor" means a person who, in the pursuit of an independent business, undertakes or offers to undertake or submits a bid, or for compensation and with or without the intent to sell the structure arranges to construct, alter, repair, improve, move over public highways, roads or streets or demolish a structure or to perform any work in connection with the construction, alteration, repair, improvement, moving over public highways, roads or streets or demolition of a structure, and the appurtenances thereto. For the purposes of this chapter, "appurtenances" includes the installation, alteration or repair of wells connected to a structure consistent with chapter 46-13.2. "Contractor" includes, but is not limited to, any person who purchases or owns property and constructs or for compensation arranges for the construction of one or more structures.

(ii) A certificate of registration is necessary for each "business entity" regardless of the fact that each entity may be owned by the same individual.

(4) "Dwelling unit" means a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

(5) "Hearing officer" means a person designated by the executive director, to hear contested claims or cases, contested enforcement proceedings, and contested administrative fines, in accordance with the Administrative Procedures Act, chapter 35 of title 42.

(6) "Monetary damages" means the dollar amount required in excess of the contract amount necessary to provide the claimant with what was agreed to be provided under the terms of the contract reduced by any amount due and unpaid to the respondent inclusive of any and all awards and restitution.

(7) "Staff" means the executive director for the contractors' registration and licensing board, and any other staff necessary to carry out the powers, functions and duties of the board including inspectors, hearing officers and other supportive staff.

(8) "State" means the state of Rhode Island.

(9) "Structure" means (i) any commercial building; or (ii) any building containing one or more residences and their appurtenances. The board's dispute resolution process shall apply only to residential structures containing dwelling units as defined in the State Building Code or residential portions of other types of buildings without regard to how many units any structure may contain. The Board retains jurisdiction and may conduct hearings regarding violations against all contractors required to be registered or licensed by the board.

(10) "Substantially" means any violation, which affects the health, safety, and welfare of the general public.

**§ 5-65-2 Applications.** (a)– The following persons shall be exempt from registration under this chapter:

(1) A person who is constructing, altering, improving, or repairing his or her own personal property.

(2) A person who is constructing, altering, improving, or repairing a structure located within the boundaries of any site or reservation under the jurisdiction of the federal government.

(3) A person who furnishes materials, supplies, equipment, or furnishes products and does not fabricate them into, or consume them, in the performance of the work of a contractor. If the person wants to file a claim pursuant to this chapter they must be registered pursuant to this chapter.

(4) A person working on one structure or project, under one or more contracts when the price of all of that person's contracts for labor, materials, and all other items is less than five hundred dollars (\$500) and the work is of a casual, minor, or inconsequential nature. This subsection does not apply to a person who advertises or puts out any sign or card or other device, which might indicate to the public that the person is a contractor.

(5) This section does not apply to a person who constructs or for compensation with the intent to sell the structure, or who arranges to have constructed a structure to be sold before, upon or after completion. It shall be prima facie evidence that there was intent to offer the structure for sale if the person who constructed the structure or arranged to have the structure constructed does not occupy the structure for one calendar year after completion.

(6) A person performing work on a single dwelling unit property that person owns, whether occupied by that person or not, or a person performing work on that person's residence, whether or not that person owns the residence. This subdivision does not apply to a person performing work on a structure owned by that person if the work is

performed, in the pursuit of an independent business, with the intent of offering the structure for sale before, upon, or after completion.

(7) A person who performs work subject to this chapter as an employee of a contractor.

(8) A manufacturer of a mobile home constructed under standards established by the federal government.

(9) A person involved in the movement of:

(i) Modular buildings or structures other than mobile homes not in excess of fourteen (14) feet in width.

(ii) Structures not in excess of sixteen (16) feet in width when these structures are being moved by their owner if the owner is not a contractor required to be registered under this chapter.

(10) Any person or business entity licensed by the state employing licensed trades persons as defined by chapters 6, 20, and 56 of this title, and 26 and 27 of title 28 and working within the purview of the license issued by the governing agency shall be exempt from all the provisions of this chapter except § 5-65-7, requiring insurance. A valid certificate of insurance shall be required to be maintained by the licensing agency during the terms of the issuance date of the license as a condition for a valid license. Failure of the licensee to maintain this insurance shall result in loss of license pursuant to requirements of statutes governing the licensing authority.

(b) No registration shall be issued to a nonresident contractor until he or she has filed with the board a power of attorney constituting and appointing a registered agent upon whom all processes in any action or legal proceeding against him or her may be served, and in the power of attorney agrees that any lawful process against him or her which may be served upon his or her registered agent is of the same force and validity as if served on the nonresident contractor, and that the force continues irrevocably in force until such time as the board has been duly notified in writing of any change to that status.

**§ 5-65-3. Registration for work on a structure required of contractor – Issuance of building permits to unregistered or unlicensed contractors prohibited – Evidence of activity as a contractor – Duties of contractors.** – (a) A person shall not undertake, offer to undertake, or submit a bid to do work as a contractor on a structure or arrange to have work done unless that person has a current, valid certificate of registration for all construction work issued by the board. A partnership, corporation, or joint venture may do the work, offer to undertake the work, or submit a bid to do the work only if that partnership, corporation, or joint venture is registered for the work. In the case of registration by a corporation or partnership, an individual shall be designated to be responsible for the corporation's or partnership's work. The corporation or partnership and its designee shall be jointly and severally liable for the payment of the registration

fee, as requested in this chapter, and for violations of any provisions of this chapter. Disciplinary action taken on a registration held by a corporation, partnership, or sole proprietor may affect other registrations held by the same corporation, partnership, or sole proprietorship, and may preclude future registration by the principal of that business entity.

(b) A registered partnership or corporation shall notify the board in writing immediately upon any change in partners or corporate officers.

(c) A city, town, or the state shall not issue a building permit to anyone required to be registered under this chapter who does not have a current, valid certificate of registration identification card or valid license which shall be presented at the time of issuance of a permit and shall become a condition of a valid permit. Each city, town, or the state which requires the issuance of a permit as a condition precedent to construction, alteration, improvement, demolition, movement or repair of any building or structure or the appurtenance to the structure shall also require that each applicant for the permit file as a condition to issuing the permit a written affidavit subject to the penalties of perjury, subscribed by the applicant, that the applicant is registered under the provisions of this chapter, giving the number of the registration and stating that the registration is in full force and effect, or, if the applicant is exempt from the provisions of this chapter, listing the basis for the exemption. The city, town, or the state shall list the contractor's registration number on the permit obtained by that contractor, and if a homeowner is issued a permit, the building inspector or official must ascertain registration numbers of each contractor on the premises and shall inform the registration board of any non-registered contractors performing work at the site.

(d) Every city and town which requires the issuance of a business license as a condition precedent to engaging, within the city or town, in a business which is subject to regulation under this chapter, shall require that each licensee and each applicant for issuance or renewal of the license file, or has on file, with the city or town a signed statement that the licensee or applicant is registered under the provisions of this chapter and stating that the registration is in full force and effect.

(e) It shall be prima facie evidence of doing business as a contractor when a person for that person's own use performs, employs others to perform, or for compensation and with the intent to sell the structure, arranges to have performed any work described in § 5-65-1(3) if within any one twelve (12) month period that person offers for sale one or more structures on which that work was performed.

(f) Registration under this chapter shall be prima facie evidence that the registrant conducts a separate, independent business.

(g) The provisions of this chapter shall be exclusive and no city or town shall require or shall issue any registrations or licenses nor charges any fee for the regulatory registration of any contractor registered with the board. Nothing in this subsection shall limit or abridge the authority of any city or town to license and levy and collect a general and

nondiscriminatory license fee levied upon all businesses, or to levy a tax based upon business conducted by any firm within the city or town's jurisdiction, if permitted under the laws of the state.

(h) (1) Every contractor shall maintain a list which shall include the following information about all subcontractors or other contractors performing work on a structure for that contractor:

(i) Names and addresses.

(ii) Registration numbers or other license numbers.

(2) The list referred to in subdivision (h)(1) of this subsection shall be delivered to the board within twenty-four (24) hours after a request is made during reasonable working hours, or a fine of twenty-five dollars (\$25.00) may be imposed for each offense.

(i) The following subcontractors who are not employees of a registered contractor must obtain a registration certificate prior to conducting any work: (1) carpenters, including finish carpenters and framers; (2) siding installers; (3) roofers; (4) foundation installers, including concrete installers and form installers; (5) drywall installers; (6) plasterers; (7) insulation installers; (8) ceramic tile installers; (9) floor covering installers; (10) swimming pool installers, both above ground and in ground; (11) masons, including chimney installers, fireplace installers, and general masonry erectors. This list is not all inclusive and shall not be limited to the above referenced contractors. No subcontractor licensed by another in-state agency pursuant to § 5-65-2 shall be required to register, provided that said work is performed under the purview of that license.

(j) A contractor including, but not limited to, a general contractor, shall not hire any subcontractor or other contractor to work on a structure unless the contractor is registered under this chapter or exempt from registration under the provisions of § 5-65-2.

(k) A summary of this chapter, prepared by the board and provided at cost to all registered contractors, shall be delivered by the contractor to the owner when the contractor begins work on a structure; failure to comply may result in a fine.

(l) The registration number of each contractor shall appear in any advertising by that contractor. Advertising in any form by an unregistered contractor shall be prohibited, including alphabetical or classified directory listings, vehicles, business cards, and all other forms of advertisements. The violations could result in a penalty being assessed by the board per administrative procedures established.

i) The board may publish revoked or suspended registrations and the date registration was suspended or revoked on a quarterly basis.

(ii) Use of the word “license” in any form of advertising when only registered may subject the registrant or those required to be registered to a fine of one hundred dollars \$100 for each offense at the discretion of the board.

(m) The contractor must see that permits required by the state building code are secured on behalf of the owner prior to commencing the work involved. The contractor's registration number must be affixed to the permit as required by the state building code.

(n) The board may assess an interest penalty of twelve percent (12%) annually when a monetary award is ordered by the board.

(o) All work performed, including labor and materials, in excess of one thousand dollars (\$1,000) shall be accompanied by a contract in writing. Contracts required pursuant to this subsection shall include a location on or near the signature line location on or in which the parties to the contract shall initial to evidence the receipt of certain consumer education materials or information approved and provided by the board to the contractor. Said educational materials and/or information shall include, but not be limited to, the following notice and shall be provided by the contractor to the homeowner:

#### NOTICE OF POSSIBLE MECHANIC’S LIEN

To: Insert name of owner, lessee or tenant, or owner of less than the simple fee.

The undersigned is about to perform work and/or furnish materials for the construction, erection, alterations or repair upon the land at (INSERT ADDRESS) under contract with you. This notice that the undersigned and any other persons who provide labor and materials for the improvement under contract with the undersigned may file a mechanic’s lien upon the land in the event of nonpayment to them. It is your responsibility to assure yourself that those other persons under contract with the undersigned receive payment for their work performed and materials furnished for the construction, erection, alteration or repair upon the land.

Failure to adhere to the provisions of this subsection may result in a one thousand dollar (\$1,000) fine against the contractor and shall not affect the right of any other person performing work or furnishing material of claiming a lien pursuant to Chapter 34-28. However, such person failing to provide such notice shall indemnify and hold harmless any owner, lessee or tenant, or owner of less than the fee simple from any payment or costs incurred on account of any liens claims by those not in privity with them, unless such owner, lessee or tenant, or owner of less than the fee simple shall not have paid such person.

(p) Contracts entered into must contain notice of right of rescission as stipulated in all pertinent Rhode Island consumer protection laws.

(q) The contractor must stipulate whether or not all the proper insurances are in effect of each job contracted.

(r) Contractors who are in compliance with the provisions of this subsection shall be exempt from the requirements of section 34-28-4.1.

(s) In addition to the requirements of this chapter, contractors engaged in well drilling activities shall also be subject to regulations pertaining to licensing and registration promulgated by the contractors' registration and licensing board pursuant to chapter 5-65.2 and § 46-13.2-4.

**§ 5-65-4. Registration required to obtain judicial or administrative remedy – Exception.** – (a) A contractor may not file a lien, file a claim with the board, or bring or maintain in any court of this state a suit or action for compensation for the performance of any work on any structure or for the breach of any contract for work on any structure which is subject to this chapter, unless the contractor was:

(1) Registered under this chapter at the time the contractor bid or entered into the contract for performance of the work unless the bid or contract predated July 1, 1990; and

(2) Registered continuously while performing the work for which compensation is sought.

(b) A court may choose not to apply this section if the court finds that to do so would result in a substantial injustice to the unregistered contractor.

**5-65-5. Registered application.** – (a) A person who wishes to register as a contractor shall submit an application, under oath, upon a form prescribed by the board. The application shall include:

(1) Workers' compensation insurance account number, or company name if a number has not yet been obtained, if applicable;

(2) Unemployment insurance account number if applicable;

(3) State withholding tax account number if applicable;

(4) Federal employer identification number, if applicable, or if self-employed and participating in a retirement plan;

(5) The individual(s) name and business address and residential address of:

(i) Each partner or venturer, if the applicant is a partnership or joint venture;

(ii) The owner, if the applicant is an individual proprietorship;

(iii) The corporation officers and a copy of corporate papers filed with the Rhode Island secretary of state's office, if the applicant is a corporation;

(iv) Post office boxes are not acceptable as the only address.

(6) A signed affidavit subject to the penalties of perjury of whether or not the applicant has previously applied for registration, or is or was an officer, partner, or venturer of an applicant who previously applied for registration and if so, the name of the corporation, partnership, or venture.

(7) Valid insurance certificate for the type of work being performed.

(b) A person may be prohibited from registering or renewing registration as a contractor under the provisions of this chapter or his or her registration may be revoked or suspended if he or she has any unsatisfied or outstanding judgments from arbitration, bankruptcy, courts and/or administrative agency against him or her relating to their work as a contractor, and provided, further, that an affidavit subject to the penalties of perjury shall be provide to the board attesting to the information herein.

(c) Failure to provide or falsified information on an application, or any document required by this chapter is punishable by a fine not to exceed ten thousand dollars (\$10,000).

(d) Applicant must be at least eighteen (18) years of age.

(e) Satisfactory proof shall be provided to the board evidencing the completion of five (5) hours of continuing education units which will be required to be maintained by residential contractors as a condition of registration as determined by the board pursuant to established regulations.

(f) An affidavit issued by the board shall be completed upon registration or license or renewal to assure contractors are aware of certain provisions of this law and shall be signed by the registrant before a registration can be issued or renewed.

**§ 5-65-6. Contractor to notify of address change – Effect of mail to last known address.** – It is the duty of a contractor to notify the board in writing of any change of address while registered and for one year following the date the contractor's registration expires or becomes inactive. The contractor shall notify the board in writing within ten (10) days of the date upon which the change of address occurs. Any proposed or final order or notice of hearing directed by the board to the last known address of record shall be considered delivered when deposited in the United States mail and/or sent registered or certified or post office receipt secured. Any other communication directed by the board to the last known address of record shall be considered delivered when deposited in the United States mail, regular mail.

**§ 5-65-7. Insurance required of contractors.** – (a) Throughout the period of registration, the contractor shall have in effect public liability and property damage insurance covering the work of that contractor which shall be subject to this chapter in

not less than the following amount: five hundred thousand dollars (\$500,000) combined single limit, bodily injury and property damage.

(b) In addition, all contractors shall have in effect worker's compensation insurance as required under chapter 29 of title 28. Failure to maintain required insurance shall not preclude claims from being filed against a contractor.

(c) The contractor shall provide satisfactory evidence to the board at the time of registration and renewal that the insurance required by subsection (a) of this section has been procured and is in effect. Failure to maintain insurance shall invalidate registration and may result in a fine to the registrant.

**§ 5-65-7.1. Notice of cancellation or failure to renew policies.** – Upon the cancellation or failure to renew, the insurance company having written a liability policy, as described in § 5-65-7, shall notify the director of the contractors' registration board of the cancellation or failure to renew. The policy shall continue in effect until ten (10) days after written notice of the cancellation is given to the director of the contractors' registration board of the cancellation or termination of the liability policy by the issuing insurance company or companies in addition to any other notices which may be required by law. Any insurance company that fails to notify the director as required in this section shall be subject to prosecution for a misdemeanor and upon conviction of that offense may be punished by a fine of not more than two hundred fifty dollars (\$250) for each offense and shall be responsible for any claims, fines or penalties from any parties resulting from lack of notice. All criminal actions for any violation of this section shall be prosecuted by the attorney general. The attorney general shall prosecute actions to enforce the payment penalties and fines at the request of the director.

**§ 5-65-8. Term of registration – Renewal – Registration identification card.** – (a) A certificate of registration shall be valid for two (2) years from the date of issuance unless the registration is revoked or suspended as described in § 5-65-10. It may be renewed by the same procedure provided for an original registration upon application and furnishing of any additional supplemental information that the board may require by rule.

(b) The board shall issue a pocket-card certificate of registration to a contractor registered under this chapter including a picture of the registrant as prescribed by the board in the rules and regulations. The Rhode Island department of administration, division of motor vehicles shall, upon the board's request, provide electronic copies of the digital photos of any registrant under this chapter on record to be incorporated into the contractors' registration data bank to match the drivers licenses or IDs provided by registrants or applicants unless the applicant provides written notification to the board to the contrary.

(c) The board may vary the dates of registration renewal by giving to the registrant written notice of the renewal date assigned and by making appropriate adjustments in the renewal fee.

(d) The presentation of the registration or license identification card shall be mandatory at the time of permit application.

(e) If a registrant files in bankruptcy court, the board must be notified in writing by the registrant and kept informed of the status of the case until dismissed, discharged or resolved in court.

**§ 5-65-9. Registration fee.** – (a) Each applicant shall pay to the board:

(1) For original registration or renewal of registration, a fee of two hundred dollars (\$200).

(2) A fee for all changes in the registration, as prescribed by the board, other than those due to clerical errors.

(b) All fees and fines collected by the board shall be deposited as general revenues to support the activities set forth in this chapter until June 30, 2008. Beginning July 1, 2008 all fees and fines collected by the board shall be deposited into a restricted receipt account for the exclusive use of supporting programs established by this chapter.

(c) Each year, the executive director shall prepare a proposed budget to support the programs approved by the board. The proposed budget shall be submitted to the board for its review. A final budget request shall be submitted to the legislature as part of the capital projects and property management annual request.

(d) New or renewal registrations may be filed on-line or with a third party approved by the board, with the additional cost incurred to be borne by the registrant.

**§ 5-65-10. Grounds for discipline – Injunctions.** – (a) The board or commission may revoke, suspend, or refuse to issue, reinstate, or reissue a certificate of registration if the board or commission determines after notice and opportunity for a hearing:

(1) That the registrant or applicant has violated § 5-65-3.

(2) That the insurance required by § 5-65-7 is not currently in effect.

(3) That the registrant, licensee or applicant has engaged in conduct as a contractor that is dishonest or fraudulent that the board finds injurious to the welfare of the public.

(4) Has violated a rule or order of the board.

(5) That the registrant has knowingly assisted an unregistered person to act in violation of this chapter.

(6) That a lien was filed on a structure under chapter 28 of title 34 because the registrant or applicant wrongfully failed to perform a contractual duty to pay money to the person claiming the lien.

(7) That the registrant has substantially violated state or local building codes.

(8) That the registrant has made false or fraudulent statements on his or her application.

(9) That a registrant has engaged in repeated acts in violation of this chapter and the board's rules and regulations inclusive of substandard workmanship and any misuse of registration.

(10) The board may take disciplinary action against a contractor who performed work or arranged to perform, while the registration was suspended, invalidated or revoked. Deposits received by a contractor and ordered returned are not considered a monetary award when no services or supplies have been received.

(11) That the registrant breached a contract.

(12) That the registrant performed negligent and/or improper work.

(13) That the registrant has advertised with a license number instead of using a registration number.

(14) That the registrant has failed to complete a project(s) for construction or a willful failure to comply with the terms of a contractor or written warranty.

(15) That the registrant has misrepresented his registration status as valid when said registration is suspended, revoked, invalidated, inactive or unregistered as required by the board.

(16) That the registrant has failed to pay a fine or respond to any order issued by the board.

(17) That the registrant has failed to obtain or maintain the required continuing education/units required by the board, or failed to sign the affidavit required by the board for registration or renewal.

(18) When a violation for hiring a non-registered contractor, working as a non-registered contractor, or not maintaining the insurance required is issued, the registration may become invalidated until the violation is resolved or hearing is requested on this offense.

(19) That the registrant has violated any of the provisions of chapters 25-3, 28-3, 28-12, 28-14, 28-36, 28-50, and/or 37-13. A finding that the registrant has violated any of

those chapters shall not be grounds for imposition of a monetary penalty under subsection (c) below.

(b) In addition to all other remedies, when it appears to the board that a person has engaged in, or is engaging in, any act, practice or transaction which violates the provisions of this chapter, the board may direct the attorney general to apply to the court for an injunction restraining the person from violating the provisions of this chapter. An injunction shall not be issued for failure to maintain the list provided for in § 5-65-3(h) unless the court determines that the failure is intentional.

(c) (1) For each first violation of a particular section of this chapter or any rule or regulation promulgated by the board, a fine not to exceed five thousand dollars (\$5,000) may be imposed after a hearing by the board. Provided, further, that the board at its discretion may, after a hearing, impose an additional fine up to but not to exceed the face value of the contract or the actual damages caused by the contractor, whichever shall be greater. Where the claim is for actual damages the board shall require proof satisfactory to the board indicating said damages. Where corrective work is completed as ordered by the board, the fine assessed may be reduced as determined by the board. Fines and decisions on claims or violations can be imposed against registered as well as contractors required to be registered by the board.

(2) For each subsequent violation of a particular subsection of this chapter or of a rule or regulation promulgated by the board, a fine not to exceed ten thousand dollars (\$10,000) may be imposed after a hearing by the board. All fines collected by the board shall be deposited as general revenues until June 30, 2008 to be used to enforce the provisions of this chapter. Beginning July 1, 2008, all fines collected by the board shall be deposited into a restricted receipt account to be used to enforce the provisions of this chapter.

(3) For the first violation of § 5-65-3, only for non-registered contractors, a fine of up to five thousand dollars (\$5,000) for a first offense and up to ten thousand dollars (\$10,000) for each subsequent offense shall be imposed.

(d) The hearing officer, upon rendering a conclusion may require the registrant, in lieu of a fine, to attend continuing education courses as appropriate. Failure to adhere to the requirement could result in immediate revocation of registration.

(e) The expiration of a registration by operation of law or by order or decision of the board or a court, or the voluntary surrender of registration by the registrant, does not deprive the board of jurisdiction, an action or disciplinary proceeding against the registrant or to render a decision suspending or revoking a registration.

(f) In emergency situations, when a registrant is acting to the detriment of the health, welfare and safety of the general public, the board's executive director may revoke or suspend a registration without a hearing for just cause for a period of thirty (30) days.

(g) A registrant may petition the board to partially or completely expunge his or her record provided that notice of said expungement proceedings has been provided to the claimant who was the subject of the violation. For purposes of this subsection “notice” shall consist of a mailing to the last known address of the claimant and need not be actual notice.

(h) Any person, or contractor, registered or not, who uses another contractor’s registration, contractor’s registration identification card, or allows another person to use their contractor’s registration fraudulently in any way, will be subject to a fine not exceeding ten thousand dollars (\$10,000).

(i) When the use of fraudulent advertising entices an individual to hire an unregistered contractor, a fine of up to ten thousand (\$10,000) may be imposed by the board.

(j) It shall be unlawful to retain a social security number or copy of the driver’s license from a registrant by a building official as a condition of obtaining a permit.

(k) The board is further authorized upon certain findings or violations to:

(1) Put a lien on property held by a contractor.

(2) Take action on registrant when the continuing education requirements have failed to be attained as required in rules and regulations.

(3) When upon investigation a complaint reveals: serious code infractions; unsatisfied mechanic’s liens; abandonment of a job for a substantial period of time without apparent cause; or any other conduct detrimental to the public, the board can double the fines.

(4) Suspend, revoke or refuse to issue, reinstate or reissue a certificate of registration to any registrant who has contracted, advertised, offered to contract or submitted a bid when the contractor’s registration is suspended, revoked, invalidated or inactive or unregistered as required by the board.

(l) No person shall register as a contractor with the contractors’ registration board for the purpose of deceiving or circumventing the registration process by enabling a person whose registration has been suspended or revoked to conduct business. Provided, further, that any person who, in good faith relies on the board or the contractors’ registration website for information regarding registration status of another shall be exempt from violations pursuant to this section if the information is not correct. Violators of this section shall be jointly and individually liable for damages resulting from their activities as contractors pursuant to this chapter. Violations of this subsection may result in a revocation of registration and/or fines not to exceed ten thousand dollars (\$10,000) and/or up to one year in jail. Furthermore, the director shall require that all applicants for registration shall swear by way of affidavit that they are aware of this provision and its implications.

(m) Upon receipt of notice of a final determination, after the exhaustion of all appeals, by the department of labor and training, consent agreement, or court order that a registered contractor violated any of the provisions of chapters 25-3, 28-3, 28-12, 28-14, 28-36, 28-50, and/or 37-13 and owes any wages, benefits or other sums arising out of such violation, the board shall immediately suspend the contractor's registration of such contractor in accordance with this subsection. The suspension shall continue until all wages, benefits, or other sums owed have been paid or the contractor has entered into a written, binding agreement to pay the same acceptable to the department of labor and training and is not in default in payment under such agreement. If the contractor fails to remain current in payment under any such agreement, the department of labor and training shall notify the contractors' registration board and the suspension shall be imposed or reinstated as the case may be. The foregoing sanction is mandatory, but shall not be grounds for imposition of a monetary penalty under subsection (c) above.

(n) When the registration of a contractor has been revoked or suspended, neither the contractor nor any successor entity or sole proprietorship that: (1) Has one or more of the same principals or officers as the partnership, limited partnership, limited liability partnership, joint venture, limited liability company, corporation, or sole proprietorship as the subject contractor; and (2) Is engaged in the same or equivalent trade or activity shall be qualified to register or retain a registration as a contractor under this chapter, unless and until the board shall determine that the basis of the revocation or suspension has been satisfied or removed and that the registrant or applicant otherwise satisfies the requirements for registration under this chapter. Notwithstanding the foregoing, a natural person may obtain relief from the application and enforcement of this subsection as to him or her, if he or she can establish that he or she was not responsible for, and did not acquiesce to the misconduct which is the basis of the revocation, suspension or denial of registration.

**§ 5-65-11. Types of allowable claims.** – The board shall only accept and make determinations of the following types of claims for damages against contractors registered or required to be registered. This section shall apply to the following types of claims:

(1) Claims against a contractor by the owner of a structure for the following in performing any work subject to this chapter:

(i) Negligent work.

(ii) Improper work.

(iii) Breach of contract.

(iv) Contract disputes.

(2) Claims against a contractor by the owner of a structure to discharge or to recoup funds expended in discharging a lien established under chapter 28 of title 34 and under

circumstances described under this subsection. The board may reduce any amount adjudged by the board under this section by any amount the claimant owes the contractor. The board shall only determine claims under this subsection if:

(i) The owner has paid the contractor for that contractor's work subject to this chapter; and

(ii) A lien is filed against the structure of the owner under chapter 28 of title 34 because the contractor failed to pay the person claiming the lien for that person's contribution toward completion of the structure.

(3) Claims against a registered contractor by a registered contractor for the following in performing any work subject to this chapter:

(i) Negligent work;

(ii) Improper work;

(iii) Breach of contract;

(iv) Furnishing labor or material or renting or supplying equipment to a contractor; or

(v) Contract dispute.

(4) Claims by an employee of a registered contractor.

(5) If at a hearing the contractor's registration number is not on the contract, or recession clause when required by law, or mechanics lien notice; the registrant shall be subject to a fine.

(6) If a settlement/agreement reached by the parties, or payment plan is breached, the board may hold an administrative hearing to suspend or revoke the contractors' registration, impose a fine, and provide monetary relief.

**§ 5-65-12. Procedure for making claims against a contractor – Investigation by board – Disciplinary action.** – (a) Any person having a claim against a contractor of the type referred to in § 5-65-11, may file with the board a statement of the claim in any form and with any fee that the board prescribes. The filing fee may be reimbursed to the claimant by the respondent, if the respondent is found to be at fault. Claims resolved prior to issuance of an order may be removed from the contractor's registration board record pursuant to administrative regulations.

(1) All claims filed with the contractor's registration board shall be heard by a designated hearing officer, unless either party prior to the administrative hearing, files a civil action on the matter in a state court. Upon receipt of a written notice and a copy of the filed civil

complaint the board shall discontinue processing the claim. If documentation is not received, the hearing will be conducted.

(2) A court judgment may constitute the basis for regulatory action against a contractor's registration, which may result in the imposition of fines and penalties. A petition to enforce a mechanic's lien does not necessarily constitute a civil action for purposes of this section.

(b) The board may refuse to accept, or refuse at any time to continue processing a claim if:

(1) The same facts and issues involved in the claim have been submitted to any other entity authorized by law or the parties to affect a resolution and settlement;

(2) The claimant does not permit the contractor against whom the claim is filed to be present at any inspection made by the board;

(3) The board determines that the contractor against whom the claim is filed is capable of complying with the recommendations made by the board relative to the claim, but the claimant does not permit the contractor to comply with the recommendations. The board may refuse to accept further process of a claim under this paragraph only if the contractor was registered at the time the work was first performed and is registered at the time the board makes its recommendations; or

(4) The board determines that the nature or complexity of the claim is such that a court is the appropriate forum for the adjudication of the claim.

(c) The board shall not process a claim unless it is filed in a timely manner as follows:

(1) If the owner of a new structure files the claim, the board must receive the claim not later than one year after the date the structure was first occupied as determined from the date of issuance of the certificate of occupancy, or one year after the date of the closing on the structure, whichever occurs later.

(2) If the owner of an existing structure files the claim, the board must receive the claim not later than one year after the date the work was substantially completed as determined by the certificate of occupancy, or the date that work ceased.

(3) Regardless of whether the claim involves a new or existing structure, if the owner files the claim because the contractor failed to begin the work pursuant to a written contract, the board must receive the claim not later than one year after the date the parties entered into a written contract.

(4) Regardless of whether the claim involves a new or existing structure, if the owner files a claim because the contractor failed to substantially complete the work, the board

must receive the claim not later than one year after the date the contractor ceased work on the structure.

(5) If a registered general contractor files the claim against a registered subcontractor, because the subcontractor failed to substantially complete the work, the board must receive the claim not later than one year after the date the subcontractor ceased to work on the structure.

(6) If a material or equipment supplier, an employee, or a registered subcontractor files the claim, the board must receive the claim not later than one year after the date the registrant incurred the indebtedness.

(7) Any corrective work performed to resolve a claim shall be the responsibility of the contractor for one year beyond the completion date but only for corrective work performed.

(d) Upon acceptance of the statement of claim, the board shall give notice to the party against whom the claim is made and shall initiate proceedings to determine the validity of the claim. If, after investigation, the board determines that a violation of this chapter or of any rule promulgated under this chapter has occurred, the board shall order any action deemed appropriate, including action on the contractor's registration and compensation to the claimant for any damages incurred as the result of the violation or claim. If the contractor performs accordingly, the board shall give that fact due consideration in any subsequent disciplinary proceeding brought by the board; provided, that the board shall suspend for a period of one year certification of any registrant who is found by final determination to have willfully and knowingly violated any provisions of this chapter with respect to three (3) or more structures within a one year period.

(e) In any action brought by a person under this chapter, the board may award, in addition to the relief provided in this section treble damages, reasonable attorneys' fees and costs and any award for services of process costs pursuant to § 5-65-26.

(f) Notwithstanding any language limiting an action pursuant to this chapter, whenever a consumer shall notify, in writing, a contractor of any problem with work performed by a contractor or subcontractor within one year of the completion of the work and said problem has not been corrected by the contractor or subcontractor, the aggrieved party shall have up to two (2) years from the date of completion of the contractor's work to file a claim with the contractors' registration board. Such two (2) year period shall not be construed as an extension of any one year warranty period expressed in any contract.

**§ 5-65-12.1. Alternate procedure for making claims against a contractor – Private right of action.**– (a) Any person having a claim against a contractor of the type referred to in § 5-65-11, may in addition to any other common law action or administrative remedy, bring an action under the rules of civil procedure in the superior court of the county in which the complainant resides, or the county where the person against whom the civil complaint is filed resides or has their principal place of business. A civil action

filed in court under this section may be instituted in lieu of or as a supplement to the contractors' registration board's administrative proceedings and penalties only to the extent that the board's final orders are insufficient to satisfy the claimant's damages.

(b) In an action filed under this section in which the plaintiff prevails the court may, in addition to any judgment awarded to the plaintiff, require treble damages, reasonable attorneys' fees and the costs of the action to be paid by the defendant.

**§ 5-65-13. Nonlawyer may represent corporation before board.** – A corporation that is registered or required to be registered as a contractor under this chapter and that is a party in any proceeding before the board or any representative of a party may appear or be represented in the proceeding by an officer of the corporation who is not a member of the state bar.

**§ 5-65-14. Builder board – Member – Terms – Confirmation – Vacancies – Qualification.** – (a) The board shall consist of fifteen (15) members appointed by the governor, eight (8) of whom shall be registered contractors, of which two (2) shall be licensed roofers; one shall be a current member of the building codes standards committee pursuant to § 23-27.3-100.1.4; one shall be a representative of the general public; one shall be a licensed and practicing architect; and two (2) shall be licensed home inspectors; one who shall be the president of the Rhode Island Builders Association or designee; and one who shall be the executive director of the Rhode Island Association of General Contractors or designee. The building code standards committee member shall be designated by the state building commissioner, and shall be appointed as provided in subsection (b) of this section.

(b) Except for the commissioner's designee the governor shall appoint seven (7) members for a term of three (3) years and five (5) members for a term of two (2) years. The governor shall appoint the member designated by the state building commissioner for a term of two (2) years. Each member reappointed by the governor shall serve for the term of his or her original appointment. Before the expiration of the term of a member, the governor shall appoint a successor. A member is eligible for reappointment. If there is a vacancy for any cause, the governor shall make an appointment immediately effective for the unexpired term. At the expiration of their terms, members shall remain and shall continue in their official capacity until a new member is appointed and confirmed.

(c) In order to be eligible for board membership, the six (6) contractor members of the board must be registered and/or licensed under this chapter and maintain their registrations and/or licenses in good standing during their term of office. In order to be eligible for board membership, the two (2) home inspector members shall be licensed pursuant to chapter 65.1 of this title and shall maintain their license in good order during their terms of office.

**§ 5-65-15. Officers – Quorum – Compensation and expenses.** – (a) The board shall select from among its members a chairperson, a vice chairperson and any other officers

for the terms and with the duties and powers necessary for the performance of their duties that the board determines.

(b) A majority of the members of the board shall constitute a quorum for the transaction of business.

(c) The board shall have an executive director who shall attend all meetings and shall direct the conduct of any investigation which may be necessary in the preparation of any hearing. The executive director shall be a member of the classified service on the staff of the state building commissioner and shall be compensated as appropriate for the required expertise.

**§ 5-65-15.1. Staff.** – (a) The state building code commission shall provide the board with appropriate staff, including hearing officials and investigators, who shall perform their duties under the administrative supervision of the executive director.

(b) The board may delegate the powers, functions and duties to the provided staff.

**§ 5-65-16. Investigatory powers of board – Use of city or county inspectors – Conduct of hearings.** – (a) The board may investigate the activities of any person engaged in the building and construction industry to determine compliance with this chapter.

(b) With the assistance of the city or town, the board may conduct investigations with the assistance of the local building officials.

(c) The board has the power to administer oaths, issue notices and subpoenas in the name of the board, compel the attendance of witnesses and the production of evidence, hold hearings and perform any other acts that are reasonably necessary to carry out its duties under this chapter.

(d) If any person fails to comply with a subpoena issued under subsection (c) of this section or refuses to testify on matters on which the person may be lawfully interrogated, the board may compel obedience.

(e) The board shall have the authority to hire private investigators or constables to carry out the duties of this chapter. The costs and expenses incurred by the hiring of private investigators may be borne by the contractor or non-prevailing party.

(f) In addition to all powers granted to the board under this chapter the board shall have the power and authority to:

(1) Award monetary damages and fines provided by this chapter;

(2) Order specific performance of any contract; and

(3) Provide any other relief and/or remedy provided by this chapter and the contractors' registration board's rules and regulations.

(g) The board may, at its discretion, require any contractor who has had action taken against his/her registration to obtain a bond not to exceed thirty thousand dollars (\$30,000).

**§ 5-65-17. Rule making authority.** – The board shall promulgate rules and fines to carry out the provisions of this chapter in accordance with the Administrative Procedures Act, chapter 35 of title 42.

**§ 5-65-18. Mechanics' lien notice.** – As applicable to and in accordance with § 5-65-1 et seq., all written contracts entered into between a contractor under this chapter and a property owner must contain a statement that the contractor, subcontractors, or material persons may file a lien in accordance with the Rhode Island Mechanics Lien Act, chapter 28 of title 34. In the event that mechanics' liens are filed and there is no serious dispute, but merely a failure to pay, then the board may impose a suspension of the registration until such time as the liens are satisfied, either by payment, deposit of the funds in the registry of the court, or with the board.

**§ 5-65-19. Penalty for operating without a registration-- Failure to comply with a final order of the board—Repeat offense a felony.** – (a) Any person who violates a final order of the board, or fails to register as a contractor as stipulated, and upon proper written notification, is deemed guilty of a misdemeanor, and, upon conviction, shall be imprisoned for a term not exceeding one year, or fined not more than five thousand dollars (\$5,000) for a first offense and not more than ten thousand dollars (\$10,000) for a second and/or subsequent offense(s) each.

(b) A final order shall be considered delivered when served to a defendant or designated agent to accept service. In addition to any sentence or fine imposed by the court under subsection (a) of this section, the court may order a defendant to comply with any outstanding final order of the board, including any monetary judgment, and/or to pay to the board any outstanding fine or fines previously imposed by the board pursuant to this chapter.

(c) If a contractor is repeat offender with violations of three (3) or more final orders of the board with respect to three (3) separate contracts executed by three (3) separate individuals/aggrieved parties and said violations are filed within a twenty-four (24) month period, the violation shall be prosecuted as a felony and upon conviction the violator shall be subject to imprisonment for a term not to exceed five (5) years or fined not more than ten thousand dollars (\$10,000).

**§ 5-65-20. Administrative hearings.** – (a) Contested claims or cases, contested enforcement proceedings, and contested administrative fines shall be heard, in accordance with the Administrative Procedures Act, chapter 35 of title 42, and the

administrative regulations promulgated by the board, by the hearings officer(s) assigned by the executive director of the board.

(b) The board has jurisdiction to hear appeals from decisions of the hearing officer(s), and may by regulation impose a filing fee, not to exceed twenty dollars (\$20.00), for any appeal.

(c) Notwithstanding the preceding, the executive director for the board is authorized to resolve contested enforcement or claim proceedings through informal disposition pursuant to regulations promulgated by the board.

**§ 5-65-21. Severability.** – The provisions of this chapter are severable. If any provisions of this chapter or the application of this chapter to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter, which can be given effect without regard to the invalid provisions or application.

**§ 5-65-22. Display of Certificate of registration.** – All contractors subject to the provisions of this chapter must include their certificate of registration number on all advertising proposals, contracts and invoices displayed in a conspicuous manner.

**§ 5-65-23. Registration required as part of bidding process.** – Whenever any bid is solicited by the state or any municipality or private party in the state of Rhode Island, the license number of any bidder who is a contractor required to be licensed under the laws of the state of Rhode Island, shall be provided by the bidder. A space on the bid form, quotation, proposal or other document shall indicate the bid price to perform the particular work involved and shall also indicate the license number of the contractor, as issued by the state of Rhode Island, to perform that work.

**§ 5-65-24. Limited applicability of chapter to non-residential contractors.** – (a) Notwithstanding anything set forth in this chapter to the contrary, the provisions of the following sections of this chapter shall not apply to any contractor who does not regularly in the course of his or her or its business as a contractor engage in construction activities as contemplated under this chapter on residential structures:

- (1) § 5-65-3(p);
- (2) § 5-65-3(k);
- (3) § 5-65-4;
- (4) § 5-65-11;
- (5) § 5-65-12;
- (6) § 5-65-18; and

(7) Subsection 5-65-5(e).

(b) Notwithstanding anything set forth in this chapter to the contrary, the provisions of the following sections of this chapter shall have only the limited applicability set forth below respecting any contractor who does not regularly in the course of his or her or its business as a contractor engage in construction activities as contemplated under this chapter on residential structures:

(1) The provisions of § 5-65-3(a) concerning the joint and several liability of applicable corporations or partnerships and their respective designees for the payment of the registration fee as requested in this chapter and for violations of any provisions of this chapter shall not apply; and

(2) The provisions of § 5-65-10(a)(4) concerning violation of a rule or order of the board shall only apply to the extent that any such rule or order does not relate to or is not derived from one of the inapplicable provisions referenced in this section.

**§ 5-65-25. Violations — Notice.** — The board shall provide, by way of the contractors' registration and licensing website, by request, or by any other means approved by the board, a posting of all final order issued by the board, all proposed orders of the board, and any and all hearing notices issued by the board. Provided, however, that all claim adjudicated in favor of the contractor shall be removed from the website or publications as soon as practicable.

Provided however, this shall not prevent the board from expunging a contractor's record pursuant to established rules and regulations.

**§ 5-65-26.—Notice of final order—Service of process — Restitution for homeowner contributions.**— The board is hereby authorized to assess against any contractor a monetary award to the claimant up to but not to exceed one thousand dollars (\$1,000) for the costs of service of process for any final orders of the board when the funds for said service of process were provided by an aggrieved party under this chapter. The aggrieved party's claim shall be limited to the actual cost of the service of process or one thousand dollars (\$1,000), whichever is less. The board shall require proof of costs from the aggrieved party evidencing said expense for the service of process.