

# MAINE STATE LEGISLATURE

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# 120th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2001

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Legislative Document

No. 1731

H.P. 1273

House of Representatives, March 21, 2001

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### **An Act to Require Registration of Building Contractors.**

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Reference to the Committee on Business and Economic Development suggested and ordered printed.

*Millicent M. MacFarland*

MILLICENT M. MacFARLAND, Clerk

Presented by Representative COWGER of Hallowell.  
Cosponsored by Representative MATTHEWS of Winslow, Senator TREAT of Kennebec and Representatives: DUPLESSIE of Westbrook, HATCH of Skowhegan, HUTTON of Bowdoinham, McKEE of Wayne, NORBERT of Portland, POVICH of Ellsworth, RICHARDSON of Brunswick, Senator: DAGGETT of Kennebec.

2 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 32 MRSA c. 135 is enacted to read:**

6 **CHAPTER 135**

8 **REGISTRATION OF BUILDING CONTRACTORS**

10 **§15301. Definitions**

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

14 1. **Building construction services.** "Building construction services" means to construct, fix, replace, alter, convert, modernize, improve or make an addition to real property. "Building construction services" includes, but is not limited to, the construction, installation, replacement, improvement or cleaning of residences, buildings, commercial buildings, driveways, swimming pools, porches, kitchens, chimneys, chimney liners, garages, fences, fallout shelters, central air conditioning, central heating, boilers, furnaces, hot water heaters, electric wiring, sewers, plumbing fixtures, storm doors, storm windows, siding or awnings or other improvements to structures or upon the land adjacent to the structures including tree trimming.

16 2. **Building contractor.** "Building contractor" means any person, partnership, corporation, professional association, business, trust or other legal entity who enters into a contract with a consumer for building construction services that total \$4,500 or more.

18 3. **Consumer.** "Consumer" means any person who purchases or contracts or is considering purchasing or contracting building construction services.

20 4. **Department.** "Department" means the Department of Professional and Financial Regulation.

22 5. **Permanent place of business.** "Permanent place of business" means a building or other permanent structure, including a home residence, that is owned or held under a 12-month lease or rental agreement, from which business is commenced and that is used in whole or in part for the purpose of engaging in sales of building construction services.

24 **§15302. Registration required**

2 A building contractor must register with the department in  
3 the manner set forth in section 15303 before engaging in the sale  
4 of building construction services.

6 **§15303. Registration application**

8 1. Information required. An application for registration  
9 under this chapter must be sworn to and must include at a minimum:

10 A. The name, local address and permanent place of business  
11 address, if any, of the applicant, the applicant's phone  
12 numbers and, if an individual or individuals, date of birth  
13 and social security number;

14 B. A description of the building construction services  
15 typically provided by the applicant;

16 C. At the time of making the application, a statement of  
17 all civil judgments or criminal convictions secured or  
18 outstanding against the seller arising out of building  
19 construction services, all criminal and civil suits pending  
20 against the seller arising out of building construction  
21 services and all criminal convictions and criminal suits  
22 pending for theft against the seller;

23 D. If a corporation, a copy of its most recent annual  
24 corporate report; and

25 E. The names, business addresses, phone numbers and social  
26 security numbers of any agents authorized to enter into  
27 building construction contracts on behalf of the applicant.

28 2. Notification of changes. The seller shall promptly  
29 notify the department of all changes in or additions to the  
30 information required by this section.

31 **§15304. Renewal application**

32 A renewal application must be filed with the department  
33 every 2 years by the building contractor. The renewal  
34 application must include changes in or additions to the  
35 information required by section 15303. The department shall mail  
36 notice to the building contractor's last known permanent place of  
37 business address 30 days in advance of the expiration date. The  
38 renewal application must be accompanied by an application and a  
39 renewal fee as provided in section 15305.

40 **§15305. Application fees**

2       A building contractor shall pay an initial application fee  
3       of \$50 and a registration fee of \$250. If an applicant is  
4       seeking renewal of its registration, the applicant shall pay an  
5       application fee of \$50 and a renewal registration fee of \$200.

6       **§15306. Registration denial; revocation**

8       The department may refuse to register an applicant or may  
9       revoke a registration for the following reasons:

10       1. Incomplete. Failing to properly complete the  
11       application;

12       2. False statement. Knowingly, intentionally or recklessly  
13       making a false statement on the application; and

14       3. Adverse decisions. Incurring more than 3 adverse court  
15       or arbitrator decisions in cases arising out of building  
16       construction services and in which the building contractor was  
17       found to have specifically violated this chapter or Title 17-A,  
18       chapter 37. A building contractor whose registration is denied  
19       or revoked may reapply after waiting 12 months or may request  
20       that the department conduct an impartial review of the action and  
21       give a written decision as to why the action was or was not  
22       justified.

23       **§15307. Evidence of registration**

24       Upon acceptance of a building contractor's application that  
25       meets the requirements of this chapter, the department shall  
26       issue to the building contractor proof of registration and a  
27       registration number. Proof of registration must be provided upon  
28       request to a consumer of building construction services and must  
29       include directions for contacting the department to verify the  
30       building contractor's registration. Use of this registration by  
31       a person other than the building contractor or the building  
32       contractor's authorized agent is a violation of this chapter.

33       **§15308. Disclosure of registration number**

34       1. Building construction contracts. A building  
35       construction contract must include the building contractor's  
36       registration number in the following manner: "State Building  
37       Contractor Registration No.: (fill in number)."

38       2. Advertisements. A building contractor advertisement  
39       must feature the building contractor's registration number in the  
40       following manner: "State Building Contractor Registration No.:  
41       (fill in number)."

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2                   **§15309. Model contract**

4                   The Department of the Attorney General shall prepare and  
6                   make available at no cost a model contract for building  
8                   construction services that fully meets the obligations of a  
                    building contractor under this chapter. The Department of the  
                    Attorney General shall provide these model contracts at no cost  
                    to the department.

10                   **§15310. Violations and penalties**

12                   1. Civil penalty. A building contractor who contracts for  
14                   work in violation of this chapter commits a civil violation for  
16                   which a civil penalty of up to \$2,000 and payable to the State  
18                   may be adjudged against the building contractor. If the building  
20                   contractor violates this chapter 2 or more times, or if the  
                    injured consumer is more than 60 years of age, the civil  
                    violation penalty may be up to \$5,000. This subsection is  
                    enforceable by either the Department of the Attorney General or  
                    the district attorney.

22                   2. Unfair trade practice. A building contractor who  
24                   violates this chapter commits an unfair trade practice in  
                    violation of Title 5, section 207.

26                   3. Revocation. In any action under this section, the court  
28                   may also revoke for up to 2 years the building contractor's  
                    registration to provide building construction services.

30                   4. Criminal penalty. Violation of section 15302 is a Class  
32                   E crime if the State pleads and proves that the act or omission  
                    was intentional.

34                   **§15311. Registration revenues**

36                   All fees collected under this chapter must be credited to  
38                   the department to carry out the purposes of this chapter.

40                   **§15312. Expiration**

42                   1. Registration. Registrations issued under section 15303  
                    expire:

44                   A. When the registrant fails to file a renewal application  
46                   as required by section 15304; or

48                   B. Upon the surrender of the registration for cancellation.

50                   **§15313. Prohibited practices**

A home contractor may not:

1. Misrepresentations. Misrepresent any material facts relating to the terms or conditions of sale;

2. False impressions. Create an impression that is false or the building contractor does not believe to be true; and

3. False promises. Promise performance that the building contractor does not intend to perform or knows will not be performed.

**§15314. Rulemaking**

The department shall adopt reasonable rules to facilitate the administration of this chapter. Rules adopted pursuant to this chapter are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

**§15315. Door-to-door home repair transient sellers**

A building contractor who also meets the definition of a transient seller of home repair services under section 14501, subsection 9 is exempt from the requirements of chapter 128, as long as the building contractor is registered pursuant to this chapter and the building contractor's registration is current and not void.

**§15316. Building construction services contract**

It is a violation of this chapter if a building contractor enters into a contract for building construction services and that contract fails to meet the written contract requirements, if applicable, of:

1. Consumer solicitation sales. The laws governing consumer solicitation sales set forth in chapter 69, subchapter V;

2. Transient sales. The laws governing transient sales set forth in chapter 69-A;

3. Home solicitation sales. The laws governing home solicitation sales set forth in Title 9-A, sections 3-501 to 3-507; and

4. Home construction contracts. The laws governing home construction contracts set forth in Title 10, chapter 219-A.

## SUMMARY

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This bill requires construction contractors who build or repair buildings and whose contracts with any consumer exceed \$4,500 to be registered with the State.