

# MAINE STATE LEGISLATURE

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# 122nd MAINE LEGISLATURE

## SECOND REGULAR SESSION-2006

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Legislative Document

No. 2089

H.P. 1477

House of Representatives, March 22, 2006

### **An Act To Require Registration by Residential Construction Contractors**

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Reported by Representative SMITH of Monmouth for the Joint Standing Committee on Business, Research and Economic Development pursuant to Joint Order 2006, H.P. 1434.

Reference to the Committee on Business, Research and Economic Development suggested and ordered printed under Joint Rule 218.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

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

2 **Sec. 1. 32 MRSA c. 134** is enacted to read:

3 **CHAPTER 134**

4 **RESIDENTIAL CONSTRUCTION CONTRACTOR**  
5 **REGISTRATION ACT**

6 **§15301. Short title**

7 This chapter may be known and cited as "the Residential Construction Contractor  
8 Registration Act."

9 **§15302. Definitions**

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

12 **1. Department.** "Department" means the Department of Professional and Financial  
13 Regulation.

14 **2. Person.** "Person" means any natural person, corporation, partnership or other  
15 business entity.

16 **3. Registrant.** "Registrant" means a person who applies to be or is registered under  
17 this chapter.

18 **4. Residential construction contractor.** "Residential construction contractor"  
19 means a person who:

20 A. Undertakes, offers to undertake or submits a bid to build, alter or repair a  
21 residential structure;

22 B. For compensation, and with or without the intent to sell a residential structure,  
23 arranges to build, alter or repair a residential structure; or

24 C. Purchases or owns property and, for compensation, builds or arranges for the  
25 building of one or more residential structures on that property.

26 For purposes of this subsection, "build, alter or repair" includes roofing work and window  
27 replacement.

28 **5. Residential construction contracts.** "Residential construction contracts" does  
29 not include contracts with subcontractors or suppliers of materials or services.

30 **6. Residential structure.** "Residential structure" means a dwelling with 3 or fewer  
31 living units and garages, if any. Buildings used for commercial or business purposes are  
32 not subject to this chapter.

33 **§15303. Scope**

34 This chapter applies only to residential construction contractors who enter into  
35 residential construction contracts totaling more than \$10,000 in the aggregate in a  
36 calendar year.

1 **§15304. Exemptions**

2 The following persons are exempt from this chapter:

3 **1. Architects and engineers.** Architects and professional engineers licensed under  
4 chapters 3-A and 19, respectively;

5 **2. Oil and solid fuel technicians; propane and natural gas technicians.** Oil and  
6 solid fuel technicians and propane and natural gas technicians licensed under chapters 33  
7 and 130, respectively;

8 **3. Manufactured housing licensees.** Manufacturers and dealers of manufactured  
9 housing licensed under Title 10, chapter 951; and

10 **4. Electricians and plumbers.** Electricians and plumbers licensed under chapters  
11 17 and 49, respectively.

12 **§15305. Registration required**

13 A person shall register with the department in the manner described in this chapter  
14 before acting as a residential construction contractor. A person may not act as a  
15 residential construction contractor in the absence of a current, valid registration.

16 **§15306. Registration process**

17 The following provisions govern the registration process for residential construction  
18 contractors.

19 **1. Electronic format.** The entire registration process must be conducted  
20 electronically via the Internet. This includes but is not limited to application, renewal and  
21 payment by the registrant; all correspondence and notices relating to registration; and  
22 issuance of registration.

23 **2. Application.** The department shall prescribe the form of electronic applications.  
24 The registrant shall supply the following information and shall certify that all information  
25 provided is true, accurate and complete:

26 **A. The name, physical address, postal address and telephone number of the**  
27 **registrant;**

28 **B. If the registrant is an individual, the registrant's social security number and date of**  
29 **birth;**

30 **C. If the registrant is an entity other than an individual, the registrant's employer**  
31 **identification number and the name of the individual authorized to file the application**  
32 **on behalf of the registrant;**

33 **D. The registrant's electronic mail address;**

34 **E. The uniform resource locator of any business-related website maintained by or for**  
35 **the benefit of the registrant;**

36 **F. Information for the 10-year period immediately preceding application relating to**  
37 **any criminal convictions, guilty pleas or no contest pleas of the registrant or any**  
38 **officer, director or general partner of the registrant, including convictions, guilty**  
39 **pleas or no contest pleas in a military court;**

- 1 G. Information for the 10-year period immediately preceding application relating to  
2 any criminal convictions, guilty pleas or no contest pleas of the registrant or any  
3 officer, director or general partner of the registrant relating to fraud, false statement  
4 or omission, wrongful taking of property, bribery or perjury or conspiracy to commit  
5 any of these crimes, including any such convictions, guilty pleas or no contest pleas  
6 in a military court;
- 7 H. Information for the 10-year period immediately preceding application relating to  
8 any bankruptcy petitions filed by or against the registrant, any business with which  
9 the registrant was associated or any officer, director or general partner of the  
10 registrant;
- 11 I. Information relating to any outstanding judgments or liens against the registrant,  
12 any business with which the registrant was associated or any officer, director or  
13 general partner of the registrant;
- 14 J. Information relating to any customer complaints, arbitration proceedings, judicial  
15 proceedings, disciplinary proceedings or license nonrenewal proceedings that are  
16 pending or that have been brought in the last 10 years against the registrant, any  
17 business with which the registrant was associated or any officer, director or general  
18 partner of the registrant;
- 19 K. A description of the business structure of the registrant;
- 20 L. If the registrant is a corporation or limited liability company, the date and state of  
21 incorporation and the names, physical addresses, postal addresses and telephone  
22 numbers of individuals with the authority to bind the organization;
- 23 M. If the registrant is a partnership or limited liability partnership, the state where the  
24 partnership agreement is filed;
- 25 N. The number of persons employed by the registrant;
- 26 O. Information relating to workers' compensation insurance purchased by the  
27 registrant; and
- 28 P. Information relating to employees leased by the registrant.
- 29 **3. Public posting of applications.** The department shall post completed  
30 applications on a publicly accessible website.
- 31 **4. Criminal history record check.** The department shall request a criminal history  
32 record check pursuant to Title 25, section 1541, subsection 6 upon receipt of an  
33 application from any individual registrant who has not previously registered under this  
34 chapter. The department may, in its discretion, request a criminal history record check  
35 upon receipt of a subsequent application or with respect to a registrant other than an  
36 individual or an officer, director or general partner of any such registrant. The cost of a  
37 criminal history record check requested pursuant to this subsection must be paid by the  
38 registrant.
- 39 **5. Registration term; renewal.** All registrations issued pursuant to this chapter  
40 expire on January 31st of each year. A registrant may apply for renewal of the  
41 registration by providing the information described in subsection 2.

1 **§15307. Change of electronic mail address; communication via electronic mail**  
2 A registrant shall immediately notify the department of any change of electronic mail  
3 address.

4 **§15308. Written contract and change order**  
5 Residential construction contractors shall use a written contract and change order that  
6 contains the contract provisions specified in Title 10, section 1487 when they enter into  
7 residential construction contractors.

8 **§15309. Complaints**  
9 The following provisions govern complaints concerning residential construction  
10 contractors.

11 **1. Electronic complaint process.** The department shall establish and maintain a  
12 mechanism for the electronic filing, processing and public posting of complaints against  
13 residential construction contractors via the Internet as described in this section.

14 **2. Complaint and response.** A complaint filed electronically under subsection 1  
15 must be forwarded to the relevant registrant via electronic mail with a request that the  
16 registrant electronically submit a response within 30 days of the date of mailing.

17 **3. Public posting of complaint and response.** Upon expiration of the 30-day  
18 response period under subsection 2, the department shall post the complaint on a publicly  
19 accessible website along with the registrant's response or, if no response was timely  
20 submitted, a notation to that effect. The department, in its sole discretion, may remove  
21 extraneous or scandalous matter or inappropriate language from the complaint and  
22 response, if any, and may paraphrase complaints and responses.

23 **4. Finality of posting.** Notwithstanding Title 5, sections 10003 and 10005, the  
24 posting of a complaint and response by the department pursuant to subsection 3 is not  
25 subject to the requirements of Title 5, chapter 375, subchapters 4 and 6, and no hearing  
26 by the department or in District Court is required.

27 **§15310. Penalties**  
28 The following provisions govern penalties for residential construction contractors.

29 **1. Failure to register.** A person that acts as a residential construction contractor  
30 subject to this chapter without registering as a residential construction contractor pursuant  
31 to this chapter commits a Class D crime. Failure to register constitutes an unfair trade  
32 practice under Title 5, chapter 10.

33 **2. Expired registration.** A residential construction contractor subject to this chapter  
34 that engages in any activity under this chapter without a current, valid registration  
35 commits a Class D crime. Unregistered practice subsequent to initial registration  
36 constitutes an unfair trade practice under Title 5, chapter 10.

37 **3. Failure to use written contract.** A residential construction contractor subject to  
38 this chapter that fails to use a written contract and change order that contains the specific  
39 contract provisions of Title 10, section 1487 commits a civil violation for which a fine of  
40 no less than \$1,000 and no more than \$10,000 may be adjudged per occurrence. Failure  
41 to use a written contract and change order constitutes an unfair trade practice under Title  
42 5, chapter 10.

