

MAINE STATE LEGISLATURE

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Date: 4/9/08 Majority

L.D. 1038
(Filing No. H- 978)

BUSINESS, RESEARCH AND ECONOMIC DEVELOPMENT

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
123RD LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT "A" to H.P. 756, L.D. 1038, Bill, "An Act To License Home Building and Improvement Contractors"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 5 MRSA §12004-A, sub-§49 is enacted to read:

49.
Maine Residential Contractor Expenses Only 32 MRSA §3510
Licensing Board

Sec. 2. 10 MRSA §1487, sub-§8, as enacted by PL 1987, c. 574, is amended to read:

8. Resolution of disputes. A statement allowing the parties the option to adopt one of 3 2 methods of resolving contract disputes. At a minimum, this statement must provide the following information:

"If a dispute arises concerning the provisions of this contract or the performance by the parties, then the parties agree to settle this dispute by jointly paying for one of the following (check only one):

- (1) ~~Binding arbitration as regulated by the Maine Uniform Arbitration Act, with the parties agreeing to accept as final the arbitrator's decision ()~~;
- (2) ~~Nonbinding arbitration, with the parties free to not accept the arbitrator's decision and to seek satisfaction through other means, including a lawsuit ()~~;
~~or~~
- (3) Mediation, with the parties agreeing to enter into good faith negotiations through a neutral mediator in order to attempt to resolve their differences ()";
; or

COMMITTEE AMENDMENT

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1 (4) A hearing and investigation performed by the Maine Residential Contractor
2 Licensing Board, under the Maine Revised Statutes, Title 32, chapter 50,
3 pursuant to the rules adopted under that chapter ()";

4 **Sec. 3. 10 MRSA §8001-A, sub-§9,** as enacted by PL 1989, c. 450, §5, is
5 amended to read:

6 **9. Board of Registration for Professional Engineers.** Professional Engineers,
7 Board of Registration for; and

8 **Sec. 4. 10 MRSA §8001-A, sub-§10** is enacted to read:

9 **10. Maine Residential Contractor Licensing Board.** Maine Residential Contractor
10 Licensing Board.

11 **Sec. 5. 32 MRSA c. 50** is enacted to read:

12 **CHAPTER 50**

13 **MAINE RESIDENTIAL CONTRACTOR LICENSING**

14 **§3510. Definitions**

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

17 **1. Board.** "Board" means the Maine Residential Contractor Licensing Board.

18 **2. Residential contractor services.** "Residential contractor services" means
19 services including home improvement and construction of a dwelling performed by a
20 residential contractor for compensation above \$10,000 per contract.

21 **§3511. Maine Residential Contractor Licensing Board**

22 The Maine Residential Contractor Licensing Board, established by Title 5, section
23 12004-A, subsection 49, consists of 5 members appointed by the Governor. Members of
24 the board are entitled to compensation in accordance with Title 5, section 12004-A,
25 subsection 49. If in any year the fees to be collected under any of the provisions of this
26 chapter are insufficient to pay the expenses provided by this section, the members of the
27 board are entitled to only a pro rata payment for expenses for that year.

28 Title 10, chapter 219-A, governing home construction contracts, and the Maine
29 Unfair Trade Practices Act supplement the provisions of this chapter.

30 **§3512. Composition of board; terms of members**

31 **1. Members.** The members of the board appointed pursuant to section 3511 must
32 include:

33 A. Two residential contractors with expertise in the field of residential contracting;

34 B. One commercial contractor with expertise in the field of residential contracting;

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1 C. One code enforcement officer with expertise in the field of residential contracting;
2 and

3 D. One public member, as defined in Title 5, section 12004-A, with significant
4 expertise in residential housing building standards.

5 2. Term. The term of office of a member of the board is 4 years. Appointment of a
6 member must comply with Title 10, section 8009. A member of the board may be
7 removed for cause by the Governor.

8 **§3513. Meetings; chair; quorum**

9 The board shall meet at least once a year to conduct the board's business and to elect
10 a chair. Additional meetings must be held as necessary to conduct the business of the
11 board and may be convened at the call of the chair or by a majority of the board
12 members. Five members of the board constitute a quorum.

13 **§3514. Powers and duties**

14 The board shall administer and enforce the provisions of this chapter. The board shall
15 propose, revise, adopt and enforce rules necessary to carry out this chapter in accordance
16 with Title 5, chapter 375, subchapter 2. Rules adopted pursuant to this section are major
17 substantive rules as defined in Title 5, chapter 375, subchapter 2-A. The board shall
18 comply with Title 5, chapter 375, subchapter 4 in enforcing this chapter.

19 Beginning January 1, 2012, the board shall license residential contractors in order to
20 ensure that residential contractors build according to uniform building and energy
21 standards under Title 10, as well as to ensure that residential contractors comply with the
22 home construction contract requirements of Title 10, chapter 219-A.

23 **§3515. Prohibited practices**

24 1. Licenses. Beginning January 1, 2012, a person may not perform residential
25 contractor services without first obtaining a license from the board as required in this
26 chapter.

27 2. Violation of rules and standards. A person who the board determines in an
28 adjudicatory proceeding has violated the uniform building and energy standards under
29 Title 10 is subject to the rules, standards and penalties of the board pursuant to Title 10,
30 section 8003, subsection 5.

31 **§3516. Investigations; suspensions; revocations**

32 1. Investigations. The board may conduct any inspections and investigations as may
33 be necessary to carry out responsibilities under this chapter. The board may contract with
34 local governments and private inspection organizations to carry out such inspection
35 functions to the extent not prohibited by federal law, rule or regulation.

36 2. Suspensions; revocations. The board may suspend and revoke residential
37 contractor licenses pursuant to its authority under Title 10, section 8003, subsection 5.

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1 **§3517. Violations; penalties**

2 **1. Unlicensed practice.** A person, firm or corporation who violates section 3515 is
3 subject to the provisions of Title 10, section 8003-C.

4 **§3518. Licenses**

5 A person who engages in the business of residential contractor services must first
6 obtain a license issued by the board. The board shall, within a reasonable time, issue a
7 license to a person who intends to perform residential contractor services in this State
8 subject to filing and approval of an application. A person who is licensed to conduct
9 these activities by other state or federal law is exempt from the requirement for licensure
10 under this section when the law provides specific authority for the provision of a
11 particular service or preempts the requirement for such licensure.

12 **Sec. 6. Initial appointments to the Maine Residential Contractor**
13 **Licensing Board.** By January 1, 2011, the Governor shall appoint members to the
14 Maine Residential Contractor Licensing Board, established pursuant to the Maine
15 Revised Statutes, Title 32, chapter 50, one for a term of one year, 2 for a term of 2 years
16 and 2 for a term of 3 years.

17 **Sec. 7. Transfer.** Notwithstanding any other provision of law, the State Controller
18 shall transfer \$212,450 from General Fund undedicated revenue to the Maine Residential
19 Contractor Licensing Board Other Special Revenue Funds account within the Department
20 of Professional and Financial Regulation no later than November 30, 2010.

21 **Sec. 8. Effective date.** Sections 1 to 5 of this Act take effect January 1, 2011.'

22 **SUMMARY**

23 This amendment establishes the Maine Residential Contractor Licensing Board as an
24 affiliated board within the Department of Professional and Financial Regulation.
25 Beginning January 1, 2012, the board will be responsible for issuing licenses to
26 residential contractors in Maine in order to ensure that residential contractors build
27 according to uniform building and energy standards, as well as to ensure that residential
28 contractors comply with the home construction contract requirements of Title 10, chapter
29 219-A.

30 **FISCAL NOTE REQUIRED**

31 (See attached)



123rd MAINE LEGISLATURE

LD 1038

LR 891(02)

An Act To License Home Building and Improvement Contractors

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Business, Research and Economic Development

Fiscal Note Required: Yes

Fiscal Note

| | 2007-08 | 2008-09 | Projections 2009-10 | Projections 2010-11 |
|-----------------------------------|---------|---------|------------------------|------------------------|
| Net Cost (Savings) | | | | |
| General Fund | \$0 | \$0 | \$0 | \$212,450 |
| Appropriations/Allocations | | | | |
| Other Special Revenue Funds | \$0 | \$0 | \$0 | \$212,450 |
| Transfers | | | | |
| General Fund | \$0 | \$0 | \$0 | (\$212,450) |
| Other Special Revenue Funds | \$0 | \$0 | \$0 | \$212,450 |

Correctional and Judicial Impact Statements

Establishes new civil violations and Class E crimes.

Establishes new Class D crimes.

This bill may increase the number of civil suits filed in the court system.

The collection of additional fines and filing fees may increase General Fund revenue by minor amounts.

Fiscal Detail and Notes

This bill establishes the Maine Home Contractor Licensing Board as an affiliated Board within the Department of Professional and Financial Regulation effective January 1, 2011. The Board will require an Other Special Revenue Funds allocation of \$212,450 in fiscal year 2010-11 for one Director position, one Senior Investigator position and one Office Specialist I position and related all other costs associated with establishing and operating the Board. Because sufficient dedicated funds will not be available to support the operation of the Board from January 1, 2011 through December 31, 2011, this bill includes language that requires the State Controller to transfer \$212,450 from the General Fund undedicated revenue to the Board no later than November 30, 2010.

The Maine Home Contractor Licensing Board may require additional Other Special Revenue Funds allocations beginning in fiscal year 2011-12 to support the continued operation of the Board once the issuing of licenses begins in January of 2012. The amount can not be determined at this time. However, this fiscal note assumes that dedicated revenue received from licensing and other fees to be established by the Board through the rulemaking process will be sufficient to support the ongoing costs of the Board beginning in fiscal year 2011-12.

The Department of Professional and Financial Regulation and the affiliated boards currently have 8.2 full time equivalent positions assigned by the Department of the Attorney General to service their legal needs. The Office of the Attorney General would reassign attorneys in order to support the Maine Residential Contractor Licensing Board upon its creation in January of 2011.