MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

SECOND REGULAR SESSION-2022

Legislative Document

No. 1977

S.P. 708

In Senate, February 10, 2022

An Act To Require Registration by General Contractors for Home Improvement and Construction

Reported by Senator CURRY of Waldo for the Joint Standing Committee on Innovation, Development, Economic Advancement and Business pursuant to Resolve 2021, chapter 76, section 3.

Reference to the Committee on Innovation, Development, Economic Advancement and Business suggested and ordered printed pursuant to Joint Rule 218.

DAREK M. GRANT Secretary of the Senate

1	Be it enacted by the People of the State of Maine as follows:
2	Sec. 1. 32 MRSA c. 147 is enacted to read:
3	CHAPTER 147
4 5	REGISTRATION FOR GENERAL CONTRACTORS FOR HOME IMPROVEMENT AND CONSTRUCTION
6	§18601. Short title
7 8	This chapter may be known and cited as "the Residential Construction Contractor Registration Act."
9	§18602. Definitions
10 11	As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.
12 13	1. Department. "Department" means the Department of Professional and Financial Regulation.
14 15	2. Home improvement. "Home improvement" means any of the following, other than incidental work:
16 17	A. Fixing, replacing, altering, converting, modernizing, improving or making an addition to a residential structure;
18 19 20 21 22	B. Structural work including the construction, installation, replacement and improvement of roofing, porches, kitchens, chimneys, chimney liners, central air conditioning, central heating, heat pumps, boilers, furnaces, hot water heaters, electric wiring, sewers, plumbing fixtures, storm doors, storm windows or siding and other improvements to a residential structure; or
23 24 25	C. The construction, installation, replacement and improvement of in-ground swimming pools, garages, fallout shelters or other structures upon the land adjacent to a residential structure.
26 27	3. Incidental work. "Incidental work" means the construction, installation, replacement or improvement of:
28	A. Landscaping:
29	B. Interior painting or wall covering;
30 31	C. Finished floor covering, including but not limited to carpeting, vinyl floor covering or tile;
32	D. Fencing or freestanding masonry walls;
33	E. Aboveground swimming pools;
34	F. Shutters or awnings;
35	G. Ground-level patios; and
36	H. Driveways.

1 **4. Person.** "Person" means a natural person, corporation, partnership or other business 2 entity. 3 5. Registrant or registered residential construction contractor. "Registrant" or "registered residential construction contractor" means a person holding a valid registration 4 5 under this chapter. 6 6. Residential construction contract. "Residential construction contract" means an 7 agreement or contract to provide home improvement services for more than \$5,000. 8 7. Residential construction contractor. "Residential construction contractor" means 9 a person that undertakes, offers to undertake or submits a bid for a residential construction 10 contract. 11 8. Residential structure or dwelling. "Residential structure" or "dwelling" means a 12 residential structure that contains at least one but not more than 4 units, including an 13 individual condominium unit or cooperative unit or, if used as a residence, manufactured 14 housing. 15 §18603. Exemptions 16 The following persons are exempt from this chapter: 17 1. Homeowners. An individual who builds a dwelling or performs any home 18 improvement on a dwelling that is intended to be used as the individual's residence unless 19 the primary purpose of the structure is a commercial enterprise; 20 2. Engineers and architects. Professional engineers licensed under chapter 19 and 21 architects licensed under chapter 3-A; 22 3. Oil burner or solid fuel technicians; propane and natural gas technicians. Oil 23 burner or solid fuel technicians and propane and natural gas technicians licensed under 24 chapter 139; 4. Manufacturers and dealers of manufactured housing. Manufacturers and dealers 25 26 of manufactured housing licensed under Title 10, chapter 951; 27 **5. Plumbers and electricians.** Plumbers licensed under chapter 49 and electricians 28 licensed under chapter 17; 29 **6. Employees.** Persons acting within the scope of their employment under the authority 30 of a registered residential construction contractor; 31 7. Subcontractors. A person working as a subcontractor under a contract with a 32 registered residential construction contractor; 33 8. Persons that perform work in emergency situations. A person that performs 34 home improvement work in response to an emergency, as long as the person applies for 35 registration under this chapter within a reasonable time after performing the work; and 36 9. Persons working on buildings used for commercial or business purposes. 37 Persons building, altering or repairing buildings used for commercial or business purposes. 38 §18604. Registration required

Except as provided in section 18603, a person may not undertake, offer to undertake

or submit a bid for a residential construction contract unless registered in accordance with

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this chapter.

2 3	An application for registration under this chapter must be in writing, under oath and in an electronic form prescribed by the department.
4	1. Requirements. An application under this section must include:
5 6	A. The applicant's name, physical address, mailing address if different, e-mail address and telephone number;
7 8 9	B. If the applicant is an individual, the applicant's date of birth or, if the applicant is an entity other than an individual, the applicant's employer identification number and the name of the individual authorized to file the application on behalf of the applicant and:
10 11 12	(1) If the applicant is a corporation or limited liability company, the date and state of incorporation and the name, physical address, mailing address if different and telephone number of individuals with the authority to bind the organization; or
13 14	(2) If the applicant is a partnership or limited liability partnership, the state where the partnership agreement is filed;
15 16	C. Any website or business-related social media maintained by or for the benefit of the applicant;
17	D. The number of years the applicant has provided home improvement services;
18 19 20 21 22 23	E. Information for the 10-year period immediately preceding application relating to any criminal convictions, guilty pleas or no contest pleas of the applicant or any officer, director or general partner of the applicant relating to fraud, false statement or omission, wrongful taking of property, bribery, perjury or conspiracy to commit any of these crimes, including any such convictions, guilty pleas or no contest pleas in a military court in this State or any other state;
24 25 26 27	F. Information for the 10-year period immediately preceding application relating to any bankruptcy petitions filed by or against the applicant, any business with which the applicant was associated or any officer, director or general partner of the applicant in this State or any other state;
28 29 30 31	G. Information for the 10-year period immediately preceding application relating to any judgments or liens against the applicant, any business with which the applicant was associated or any officer, director or general partner of the applicant in this State or any other state;
32 33	H. The applicant's workers' compensation insurance policy company name and policy number;
34	I. The applicant's liability insurance policy company name and policy number, if any;
35 36 37 38 39	J. Information about the status of all professional or occupational licenses and registrations in all jurisdictions in which the applicant holds or has held a license within the 10-year period immediately preceding application. For the purposes of this section, an applicant may affirm that a license is in good standing in another jurisdiction only if the applicant:
40	(1) Does not have a complaint, allegation or investigation pending;
41	(2) Does not have a license that is suspended or subject to practice restrictions; and

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§18605. Application

1 (3) Has not surrendered a license or had a license revoked; and

K. The applicant's acknowledgement that the applicant is required to comply with all provisions of Title 10, chapter 219-A governing home construction contracts.

§18606. Public posting of registrants; disclaimer

The department shall make registrant information available on its publicly accessible website. The department shall include notice on its publicly accessible website that the information supplied by the registrant is not validated by the department and confers no assurance of competence.

§18607. Registration term; renewal

All registrations issued pursuant to this chapter expire on January 31st of each year.

§18608. Penalties

The following are violations of the Maine Unfair Trade Practices Act:

- 1. Failure to register. Unless exempted under this chapter, acting as a residential construction contractor without registering as a residential construction contractor;
- 2. Failure to use written contract. Unless exempted under this chapter, failure of a person that is registered under this chapter to provide a written contract or change order pursuant to Title 10, chapter 219-A; and
- **3. False information.** Submitting false information on the applicant's application to the department under this chapter.

§18609. Fees

A registrant shall pay an annual registration fee of \$150 in a manner prescribed by the department to the department upon application or renewal.

23 SUMMARY

This bill, which is reported out by the Joint Standing Committee on Innovation, Development, Economic Advancement and Business pursuant to Resolve 2021, chapter 76, establishes a mandatory registration process for residential construction contractors for the purpose of providing consumers an opportunity to confirm whether the contractor is operating legally, whether the contractor has certain insurances and whether the contractor has been subject to claims related to fraud, theft, deception, breach of contract and other violations that may have a bearing on the integrity of the contractor. Registration confers no assurance of competence.

The committee has not taken a position on the substance of the bill and by reporting this bill out the committee is not suggesting and does not intend to suggest that it agrees or disagrees with any aspect of this bill. The committee is reporting the bill out for the sole purpose of obtaining a printed bill that can be referred to the committee for a public hearing and subsequent committee action in the normal course.