

MAINE STATE LEGISLATURE

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Date: 4/5/24 Report 'A'

L.D. 1929

(Filing No. H-929)

INNOVATION, DEVELOPMENT, ECONOMIC ADVANCEMENT AND BUSINESS

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
131ST LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1237, L.D. 1929, "An Act to Protect Consumers by Licensing Home Building Contractors"

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

Sec. 1. 5 MRSA §12004-A, sub-§50 is enacted to read:

50.

Residential Construction Board \$35/Day 32 MRSA §18902

Sec. 2. 10 MRSA §1487, sub-§5, as enacted by PL 1987, c. 574, is amended to read:

5. **Payment.** The method of payment, with the initial down payment being limited to no more than 1/3 of the total contract price and with no more than 85% of the total contract price required to be paid prior to substantial completion of the work;

Sec. 3. 10 MRSA §1487, sub-§8, as amended by PL 2009, c. 173, §1, is repealed.

Sec. 4. 10 MRSA §1489, as enacted by PL 1987, c. 574, is repealed.

Sec. 5. 10 MRSA §8001, sub-§38, ¶NN, as amended by PL 2023, c. 17, Pt. P, §2, is further amended to read:

NN. Maine Fuel Board; ~~and~~

Sec. 6. 10 MRSA §8001, sub-§38, ¶OO, as enacted by PL 2023, c. 17, Pt. P, §3, is amended to read:

OO. Board of Dental Practice; ~~and~~

Sec. 7. 10 MRSA §8001, sub-§38, ¶PP is enacted to read:

PP. Residential Construction Board.

Sec. 8. 32 MRSA c. 151 is enacted to read:

COMMITTEE AMENDMENT

CHAPTER 151

2

RESIDENTIAL GENERAL CONTRACTORS

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§18901. Definitions

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

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1. Board. "Board" means the Residential Construction Board established in Title 5, section 12004-A, subsection 50.

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2. Contract price. "Contract price" means the total contract price, including all costs to be incurred in the proper performance of the work, or, if the work is priced according to a so-called cost-plus formula, the agreed-upon price and an estimate of the cost of labor and materials.

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3. Maine Uniform Building and Energy Code. "Maine Uniform Building and Energy Code" has the same meaning as in Title 10, section 9721, subsection 2.

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4. Residential construction. "Residential construction" means the building, demolition or alteration of a residential dwelling unit or a building or premises with 2 or fewer residential dwelling units and includes interior and exterior construction, renovation and repair; paving; roofing; weatherization; installation or repair of heating, plumbing, solar, electrical, water or wastewater systems; and other activities the board specifies by rule consistent with this chapter. "Residential construction" includes activities affecting the residential portion of a building or premises that have both residential and commercial components if the building or premises include 2 or fewer residential dwelling units.

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5. Residential general contractor. "Residential general contractor" means a person that undertakes, offers to undertake, purports to have the capacity to undertake or submits a bid for residential construction. "Residential general contractor" does not include:

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A. A person undertaking residential construction as a subcontractor of a person that has entered into an agreement with a customer for the residential construction; or

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B. A person that has not otherwise entered into an agreement for the residential construction with a customer.

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§18902. Residential Construction Board

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1. Established. Notwithstanding any provision of law to the contrary, the Residential Construction Board is established within the Department of Professional and Financial Regulation to carry out the purposes of this chapter.

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2. Membership. The members of the board, who are appointed by the Governor, are as follows:

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A. Three members who are residential general contractors, including at least one who is a member of a contracting trade association;

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B. One member who is a municipal code enforcement officer;

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C. One member who is an attorney with experience in residential construction and contract law;

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- 1 ROS D. One member who is a representative of the University of Maine System who
2 oversees career and technical education programs;
3 E. One member who is a residential architect; and
4 F. Two members of the public.

5 Members serve 3-year terms. Appointments of members must comply with Title 10,
6 section 8009. A member may be removed by the Governor for cause. Members not
7 otherwise compensated or reimbursed by their employers or others whom they represent in
8 carrying out the duties of the board are entitled to a per diem of \$35 for each day actually
9 engaged in the performance of those duties in accordance with Title 5, section 12002-B.

10 **3. Powers and duties.** The board has the following powers and duties, in addition to
11 other powers and duties set forth in this chapter.

12 A. The board shall meet at least once a year to conduct its business and to elect a chair.
13 Additional meetings must be held as necessary to conduct the business of the board
14 and may be convened at the call of the chair or a majority of the board members.

15 B. The board may adopt bylaws, rules for the transaction of the business of the board
16 and the management of its affairs as it considers expedient.

17 C. The board shall set standards of practice for residential general contractors that are
18 consistent with the standards set forth in this chapter and the Maine Uniform Building
19 and Energy Code.

20 D. The board shall set standards for qualification of residential general contractors and
21 examine, issue and renew the licenses of qualified applicants for licensure under
22 section 18903.

23 E. The board shall prescribe curricula and standards for educational programs
24 preparing persons for licensure under section 18903.

25 **§18903. Licensure; exemptions; application; issuance**

26 **1. License required.** Except as provided in subsection 2, and notwithstanding any
27 provision of law to the contrary, beginning January 1, 2026, a residential general contractor
28 may not perform, offer to perform or agree to perform residential construction with a
29 contract price that exceeds \$10,000 without a license issued by the board.

30 **2. Exemptions from license requirement.** The following persons are exempt from
31 the prohibition established in subsection 1:

32 A. An electrician licensed under chapter 17 when providing licensed services;

33 B. A plumber licensed under chapter 49 when providing licensed services;

34 C. An architect licensed under chapter 3-A when providing licensed services;

35 D. A professional engineer licensed under chapter 19 when providing licensed services;

36 E. A person providing only design services for residential construction;

37 F. A person furnishing only materials for residential construction;

38 G. A person furnishing only painting services for residential construction;

39 H. A person furnishing only landscaping services for residential construction;

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- I. The State and any political subdivision of the State;
 - J. A school administrative unit, as defined in Title 20-A, section 1, subsection 26;
 - K. A consumer-owned water utility, as defined in Title 35-A, section 6101, subsection 1-A;
 - L. A sewer district, as defined in Title 38, section 1032, subsection 3;
 - M. A sanitary district formed under Title 38, chapter 11;
 - N. A public or private school offering career and technical education or training in residential construction;
 - O. A person engaged in the delivery or installation of audiovisual equipment, telephone equipment or computer network equipment for residential construction;
 - P. A person offering to perform or performing residential construction in response to an emergency, but only to the extent necessary to address the emergency;
 - Q. A master oil burner technician or solid fuel technician licensed under chapter 139 when providing licensed services;
 - R. A person licensed under Title 10, chapter 951 when providing licensed services; and
 - S. A person performing residential construction services on a single-family residence occupied or to be occupied by that person as their place of residence.
- 3. Application for license.** The board shall establish by rule the application process for a license under this chapter, including requirements for payment of an initial licensing fee of not more than \$250 and requirements for payment of a license renewal fee of not more than \$100. An applicant for a license shall provide:
- A. The applicant's legal name and social security number or employer identification number, as appropriate;
 - B. Any trade or business name used in the applicant's residential construction business;
 - C. Any employer of the applicant that is engaged in residential construction;
 - D. The address of the applicant's principal place of business;
 - E. The mailing address of the applicant, if different from the address of the principal place of business under paragraph D;
 - F. The address of the applicant's primary residence;
 - G. The following information if there is any civil proceeding, judgment or award in which a claim is asserted, adjudicated or entered against the applicant:
 - (1) The jurisdiction or forum of the proceeding, judgment or award;
 - (2) The names of the parties to the proceeding, judgment or award; and
 - (3) The docket number associated with the proceeding, judgment or award;
 - H. Identification of any pending civil or criminal investigation of any residential construction business of the applicant and the name of the investigating agency or officer;

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1 I. Evidence that the applicant has general liability insurance in the amount of \$100,000
2 in the aggregate and certification that the applicant will maintain that general liability
3 insurance during the relevant license period;

4 J. Evidence of workers' compensation coverage for employees in accordance with Title
5 39-A;

6 K. Evidence that the applicant has satisfied the education requirements under
7 subsection 4; and

8 L. Any other information the board determines to be necessary or useful in carrying
9 out the purposes of this chapter.

10 **4. Education requirements.** A person may not be licensed under this chapter unless
11 the person has satisfied education requirements established by the board by rule. The
12 education requirements must include successful completion of a course of at least 6 hours
13 of appropriate education and a passing score on an examination developed by the board
14 that is designed, at a minimum, to demonstrate competency in the Maine Uniform Building
15 and Energy Code, other relevant building codes and standards and business management
16 practices.

17 **5. Denial or refusal to renew license; disciplinary action.** The board in its discretion
18 may deny an application for a license, refuse a renewal of a license or impose the
19 disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for any of the
20 reasons enumerated in Title 10, section 8003, subsection 5-A, paragraph A, in addition to
21 the following grounds:

22 A. The applicant failed to meet the requirements of subsection 3, paragraph I, J or K;
23 or

24 B. The applicant has prior violations of this chapter.

25 **6. Expiration; renewal.** A license issued under this chapter expires at 11:59 p.m. on
26 December 31st of the year in which it is issued, except that a license issued during the last
27 3 months of the calendar year expires at 11:59 p.m. on December 31st of the following
28 year. A licensee may renew a license by completing 6 hours of a board-approved
29 continuing education program, submitting an application that satisfies the requirements of
30 subsection 3 and paying a renewal fee.

31 **7. Rules.** The board shall adopt rules to implement the requirements of this chapter.
32 Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5,
33 chapter 375, subchapter 2-A.

34 **§18904. Penalties and remedies**

35 **1. Unfair trade practice.** A violation of this chapter constitutes an unfair trade practice
36 prohibited under Title 5, section 207.

37 **2. Civil violation.** An intentional violation of this chapter is a civil violation for which
38 a fine of not more than \$10,000 must be imposed. Any person that in the course of offering
39 to perform or performing residential construction makes a misrepresentation of that
40 person's license status under this chapter commits a civil violation for which a fine of not
41 more than \$10,000 may be imposed.



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3. Limitation on other rights. A person required to obtain a license under this chapter that does not obtain a license does not have a lien claim under Title 10, chapter 603 for any residential construction performed during the period in which the person was not licensed.

Sec. 9. Residential Construction Board; staggered terms. Notwithstanding the Maine Revised Statutes, Title 32, section 18902, subsection 2, the terms of the members initially appointed to the Residential Construction Board must be staggered, with 3 members serving a term of 3 years, 3 members serving a term of 2 years and 3 members serving a term of one year.

Sec. 10. Exemption from sunrise review. This Act is enacted without review or evaluation under the Maine Revised Statutes, Title 5, section 12015, subsection 3 or Title 32, chapter 1-A, subchapter 2.

Sec. 11. Transfer from General Fund unappropriated surplus; Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, fiscal year 2024-25. Notwithstanding any provision of law to the contrary, the State Controller shall transfer \$579,413 from the unappropriated surplus of the General Fund to the Office of Professional and Occupational Regulation, Other Special Revenue Funds account within the Department of Professional and Financial Regulation no later than August 1, 2024 to support the establishment and start-up costs of the Residential Construction Board created pursuant to the Maine Revised Statutes, Title 32, section 18902.

Sec. 12. Transfer from General Fund unappropriated surplus; Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, fiscal year 2025-26. Notwithstanding any provision of law to the contrary, the State Controller shall transfer \$573,352 from the unappropriated surplus of the General Fund to the Office of Professional and Occupational Regulation, Other Special Revenue Funds account within the Department of Professional and Financial Regulation no later than July 15, 2025 to support the operating costs of the Residential Construction Board created pursuant to the Maine Revised Statutes, Title 32, section 18902.

Sec. 13. Transfer from General Fund unappropriated surplus; Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, fiscal year 2026-27. Notwithstanding any provision of law to the contrary, the State Controller shall transfer \$674,225 from the unappropriated surplus of the General Fund to the Office of Professional and Occupational Regulation, Other Special Revenue Funds account within the Department of Professional and Financial Regulation no later than July 15, 2026 to support the operating costs of the Residential Construction Board created pursuant to the Maine Revised Statutes, Title 32, section 18902.

Sec. 14. Appropriations and allocations. The following appropriations and allocations are made.

**PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF
Administrative Services - Professional and Financial Regulation 0094**

KUS
11/14/2023

Initiative: Allocates funds for the general operating costs necessary to support the Residential Construction Board.

OTHER SPECIAL REVENUE FUNDS	2023-24	2024-25
All Other	\$0	\$44,491
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$44,491

Office of Professional and Occupational Regulation 0352

Initiative: Allocates funds for per diem, consulting and related All Other costs for the Residential Construction Board effective August 1, 2024. Also allocates funds for one Public Service Manager II position, one Office Specialist II position and one Planning & Research Associate II position and associated All Other costs effective August 1, 2024. One Inspector position and one Senior Inspector position and related All Other costs will be required effective July 1, 2025. Also allocates funds for the general operating costs necessary to support both the board and its staff.

OTHER SPECIAL REVENUE FUNDS	2023-24	2024-25
POSITIONS - LEGISLATIVE COUNT	0.000	3.000
Personal Services	\$0	\$292,305
All Other	\$0	\$242,617
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$534,922

**PROFESSIONAL AND FINANCIAL
REGULATION, DEPARTMENT OF
DEPARTMENT TOTALS**

	2023-24	2024-25
OTHER SPECIAL REVENUE FUNDS	\$0	\$579,413
DEPARTMENT TOTAL - ALL FUNDS	\$0	\$579,413

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment, which is the majority report of the committee, replaces the bill. The amendment establishes licensing requirements for residential general contractors that perform residential construction work. It establishes the Residential Construction Board to administer the licensing requirements and establishes certain penalties for violations of the licensing requirements. The amendment also adds an appropriations and allocations section.

FISCAL NOTE REQUIRED

(See attached)



131st MAINE LEGISLATURE

LD 1929

LR 1086(02)

An Act to Protect Consumers by Licensing Home Building Contractors

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-929)
Committee: Innovation, Development, Economic Advancement and Business

Fiscal Note Required: Yes

Fiscal Note

	FY 2023-24	FY 2024-25	Projections FY 2025-26	Projections FY 2026-27
Net Cost (Savings)				
General Fund	\$0	\$579,413	\$573,352	\$674,225
Appropriations/Allocations				
Other Special Revenue Funds	\$0	\$579,413	\$723,352	\$739,225
Revenue				
Other Special Revenue Funds	\$0	\$0	\$150,000	\$64
Transfers				
General Fund	\$0	(\$579,413)	(\$573,352)	(\$674,225)
Other Special Revenue Funds	\$0	\$579,413	\$573,352	\$674,225

Correctional and Judicial Impact Statements

The additional workload associated with the minimal number of new cases filed in the court system does not require additional funding at this time.

The collection of additional fines will increase General Fund or other dedicated revenue by minor amounts.

Fiscal Detail and Notes

This bill establishes the Residential Construction Board within the Department of Professional and Financial Regulation's Office of Professional and Occupational Regulation (OPOR) and requires that, effective January 1, 2026, a residential general contractor may not perform, offer to perform or agree to perform residential construction with a contract price that exceeds \$10,000 without a license issued by the board. This bill includes Other Special Revenue Funds allocations totaling \$579,413 in fiscal year 2024-25 to the department for the costs associated with implementing and administering the new licensing program.

Of that amount, Other Special Revenue Funds allocations of \$534,922 are provided to OPOR for one Office Specialist II position, one Planning & Research Associate II position and one Public Service Manager II position effective August 1, 2024 as well as per diem and related All Other costs to support the work of the board and the staff. In addition to the 3 allocated positions, OPOR expects to add one Inspector position and one Senior Inspector position July of 2025 to research and investigate complaints. This bill also includes allocations of \$44,491 in fiscal year 2024-25 to the Administrative Services Division within the department for upgrading and maintaining the Agency Licensing Management System, Service Center support as well as for other technology related costs.

C" A" (11-929)

This bill caps the amount that can be collected for initial licenses and license renewals at \$250 and \$100, respectively. The department estimates the licensing of 600 contractors beginning in January 2026 at \$250 per license will generate \$150,000 in dedicated revenues to the board in fiscal year 2025-26. The department also assumes that 575 contractors will renew their licenses each year and 30 contractors will apply for a new license annually, resulting in ongoing dedicated revenue to the board of \$64,500 per year. Given that this dedicated revenue will not be sufficient to cover the costs of the licensing program, ongoing transfers from the General Fund unappropriated surplus will be required beginning in fiscal year 2024-25. This bill includes language directing the State Controller to transfer \$579,413 no later than August 1, 2024, \$573,352 no later than July 15, 2025 and \$674,225 no later than July 15, 2026 to OPOR to support the establishment and operation of the licensing board.