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CONTRACTORS' REGISTRATION BOARD STATUTE AMENDED AGAIN

The Rhode Island legislature has once again amended the Contractors' Registration statute. Some of the most important changes include the new requirement that commercial contractors register with the Contractors' Registration Board, mandatory provisions to be contained in commercial contracts, and several other requirements of which residential and commercial contractors must be aware. In this issue, we will discuss who is covered by the amended statute and new requirements that are now in place, including required provisions in residential and commercial contracts.

MOST COMMERCIAL AND RESIDENTIAL CONTRACTORS PERFORMING WORK IN RHODE ISLAND MUST REGISTER

RESIDENTIAL CONTRACTOR LICENSING REQUIREMENTS

Residential contractors, with a few exceptions identified in a later section, must register with the Board. If the contractor is a person, corporation, partnership or joint venture, that entity must register with the Board. Corporations, partnerships, and joint ventures must designate an individual who will be responsible for the company's work. That individual can be held personally liable for any violations of the contractors' registration statute.

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Firm Profile:

The practice of Heald & LeBoeuf, Ltd. is concentrated in the area of construction law. The firm is dedicated to the delivery of the highest level of legal services to construction related business concerns.

Heald & LeBoeuf, Ltd. practice areas include:

- Construction Law and Litigation
- Public Bidding
- Mechanics' Lien Law
- Arbitration and Mediation
- Public Contract Law
- Surety and Bond Law

Rhode Island does not have a procedure for certification or recognition of specialization by lawyers.

STATUTE REQUIRES CERTAIN CONTRACT PROVISIONS IN DIRECT CONTRACTS WITH OWNER ON RESIDENTIAL AND COMMERCIAL PROJECTS

The Contractors' Registration Board Statute now requires that the written contracts entered into by both residential and commercial contractors must contain certain provisions. The following is a listing of these provisions.

RESIDENTIAL PROJECTS:

Any contractor working on a residential project that has a direct contract with the owner must have the following provisions included in their contract:

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NEW REQUIRED CONTRACT PROVISION MAY ALLOW CONTRACTORS TO LIEN PROJECT WITHOUT MAILING NOTICE OF POSSIBLE MECHANICS' LIEN

The Rhode Island Mechanics' Lien Statute requires that a Notice of Possible Mechanics' Lien be sent by certified mail to the owner within ten (10) days after the start of the project if a commercial/residential contractor has a direct contract with the owner. The Contractors' lien rights will be lost if the Notice is not provided.

However, the Contractors Registration Board Statute now states that any residential contractor that includes provision 6 as stated on page 3 in their contract and Form 02, will be exempt from the requirements of the Mechanics' Lien Statute and will not need to send the Notice of Possible Mechanics' Lien by certified mail.

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MOST COMMERCIAL AND RESIDENTIAL CONTRACTORS PERFORMING WORK IN RHODE ISLAND MUST REGISTER *(continued from page 1)*

Most residential subcontractors, with a few exceptions which are identified below, also have to register with the Board. General contractors must make sure that their subcontractors are registered with the Board. The statute states that, "a general contractor, shall not hire any subcontractor or other contractor to work on a structure unless the contractor is registered under this chapter or exempt from registration . . ." In fact, general contractors are required to maintain a list of all subcontractors working on every project. The list should include the subcontractors' names and address, and license numbers. General contractors must produce this list to the Board on twenty-four (24) hours notice.

Non-registered contractors and subcontractors and contractors that hire non-registered subcontractors may be fined up to \$5,000 for the first offense and up to \$10,000 for subsequent offenses.

The Board can refuse to register or renew contractors who have unsatisfied judgments or arbitration awards relating to their work as a contractor.

Contractors must have liability and workers' compensation insurance. The liability insurance must be at least for \$500,000 "combined single limit, bodily injury and property damage." Insurance carriers are supposed to notify the board of any policy that is canceled or not renewed. The Board, in turn, must invalidate the registration of any uninsured contractor. The Board now maintains each contractors' insurance information on its web site.

There are also requirements for advertisements placed by residential contractors. The contractor must be registered, and the contractor's registration number must appear in the advertisement.

As part of the 2007 amendments, residential contractors must also complete five (5) hours of continuing education each year. According to the new statute, the Board will discuss the continuing education requirements in more detail in upcoming regulations. The Board can invalidate the registration of contractors who fail to satisfy the annual continuing registration requirement.

COMMERCIAL CONTRACTOR LICENSING REQUIREMENTS

With limited exceptions noted below, the same licensing requirements that apply to residential contractors also apply to commercial contractors. Like residential contractors, commercial contractors must register with the Board, whether the contractor is a person, corporation, partnership, or joint venture. Corporations, partnerships and joint ventures must designate an individual who will be responsible for the company's work. That individual can be held personally liable for any violations of the contractors' registration statute.

Most commercial subcontractors must also register with the board (see next section). As is the case with residential general contractors, commercial general contractors must make sure that their subcontractors are registered with the Board. The statute states that, "a general contractor, shall not hire any subcontractor or other contractor to work on a structure unless the contractor is registered under this chapter or exempt from registration . . ." In fact, general contractors are required to maintain a list of all subcontractors working on every project. The

list should include the subcontractors' names and address, and license numbers. General contractors must produce this list to the Board on twenty-four (24) hours notice.

Non-registered contractors and subcontractors, and contractors that hire non-registered subcontractors may be fined up to \$5,000 for the first offense and up to \$10,000 for subsequent offenses.

The Board can refuse to register or renew contractors who have unsatisfied judgments or arbitration awards relating to their work as a contractor.

Contractors must have liability and workers' compensation insurance. The liability insurance must be at least for \$500,000 "combined single limit, bodily injury and property damage." Insurance carriers are supposed to notify the board of any policy that is canceled or not renewed. The Board, in turn, must invalidate the registration of any uninsured contractor. The Board now maintains each contractors' insurance information on its web site.

There are also requirements for advertisements placed by commercial contractors. The contractor must be registered and the contractor's registration number must appear in the advertisement.

Some of the requirements applicable to residential contractors do not apply to commercial contractors. For example, commercial contractors are not subject to the statute's continuing education requirements and their contracts need not include all of the provisions required in residential contracts. Furthermore, the dispute resolution procedures do not apply to commercial structures that do not involve residential living units.

EXEMPT CONTRACTORS AND PROJECTS

As was the case under the old statute, the registration requirement does not extend to subcontractors who are already licensed by another Rhode Island government agency. Thus, hoisting engineers, installers of individual sewage disposal systems, plumbers, electricians, pipefitters and refrigeration technicians are exempt from the Contractors' Registration Board statute. This exemption will not apply, however, if the licensed contractor engages in work outside of the scope of its license. Subcontractors licensed by another Rhode Island government agency must still comply with the insurance requirements of the statute.

Also exempt are persons who work on their own personal property, persons who work within the boundaries of any site or reservation under the jurisdiction of the federal government, persons who furnish materials, supplies or equipment only, developers, manufactures of mobile homes pursuant to federal standard, and persons involved in the movement of modular homes.

**STATUTE REQUIRES CERTAIN CONTRACT PROVISIONS
IN DIRECT CONTRACTS WITH OWNER ON RESIDENTIAL
AND COMMERCIAL PROJECTS** *(continued from page 1)*

1. Contractor Registration No. [INSERT YOUR NO.]
2. Mechanics' Lien Notice – [INSERT YOUR NAME]'s and its subcontractors or material suppliers may file a lien against your property in accordance with the Rhode Island Mechanics' Lien Act, Chapter 28 of Title 34.
3. Insurance Notice – The proper insurances, public liability and property damage insurance and workers' compensation insurance as called for in RIGL §5-65-7 are in effect for this work.

The following provisions must be in ten (10) point bold face type or larger, as indicated:

4. Notice to buyer: (1) Do not sign this agreement if any of the spaces intended for the agreed terms to the extent of then available information are left blank. (2) You are entitled to a copy of this agreement at the time you sign it. (3) You may at any time pay off the full unpaid balance due under this agreement, and in so doing you may be entitled to receive a partial rebate of the finance and insurance charges. (4) The seller has no right to unlawfully enter your premises or commit any breach of the peace to repossess goods purchased under this agreement. (5) You may cancel this agreement if it has not been signed at the main office or a branch office of the seller, provided you notify the seller at his or her main office or branch office shown in the agreement by registered or certified mail, which shall be posted not later than midnight of the third calendar day after the day on which the buyer signs the agreement, excluding Sunday and any holiday on which regular mail deliveries are not made.
5. Notice of Cancellation: Date of Contract: [INSERT DATE]. You may cancel this transaction, without any penalty or obligation, within three (3) business days from the above date. If you cancel, your cancellation notice must state that you do not wish to be bound by the agreement and mailed by registered or certified mail not later than midnight three (3) days following the buyer's signing the agreement, excluding Sunday and any holiday on which regular mail deliveries are not made. All cancellations must be mailed to: [INSERT CONTRACTOR'S NAME AND ADDRESS].

6. Acceptance of Consumer Education Materials/Notice of Possible Mechanics' Lien: I/We hereby acknowledge receipt of the following consumer education materials and notice of possible mechanics' lien which are attached to this contract: (1) Beneficial Information to Consumers/Summary of Registration Law (R.I.G.L. Title 5, Chapter 65); (2) Notice of Possible Mechanics' Lien and (3) Information in Regard to the Contractors' Registration Board Dispute Resolution Process (total 4 pages).
Customer Initials_____.

In addition to the above provisions being included to your contract, the enclosed consumer education materials and notice of possible mechanics' lien marked 01, 02, 03 and 04 must be attached to your contract.

COMMERCIAL PROJECTS:

Any contractor working on a commercial project that has a direct contract with the owner must have the following provisions included in their contract:

- A. Contractor Registration No. [INSERT YOUR NO.]
- B. Insurance Notice – The proper insurances, public liability and property damage insurance and workers' compensation insurance as called for in RIGL §5-65-7 are in effect for this work.

The following provisions must be in ten (10) point bold face type or larger.

- C. Acceptance of Consumer Education Materials/Notice of Possible Mechanics' Lien: I/We hereby acknowledge receipt of the following consumer education materials and notice of possible mechanics' lien which are attached to this contract: (1) Notice of Possible Mechanics' Lien and (2) Information in Regard to the Contractors' Registration Board Dispute Resolution Process (total 3 pages).
Customer Initials_____.

In addition to the above provisions being included in your contract, the enclosed consumer education materials and notice of possible mechanics' lien marked 02, 03 and 04 must be attached to your contract.

**NEW REQUIRED CONTRACT PROVISION MAY
ALLOW CONTRACTORS TO LIEN PROJECT
WITHOUT MAILING NOTICE OF POSSIBLE
MECHANICS' LIEN** *(continued from page 1)*

Similarly, any commercial contractor that includes provision C as stated on page 3 in their contract and Form 02, will be exempt from the requirements of the Mechanics' Lien Statute and will not need to send the Notice of Possible Mechanics' Lien by certified mail.

Now the contractor can include the "Notice of Possible Mechanics' Lien" as part of their contract, rather than sending an onerous letter to the owner at the start of the project. This is a much needed revision to the mechanics' lien statute.

BOARD OF EDITORS

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This newsletter is intended to provide general information of interest to the construction community.

It is not intended to provide specific legal advice or to address fact specific legal issues. For that you should consult your own legal counsel. Heald & LeBoeuf, Ltd. assumes no liability in connection with the use of this newsletter.

Please contact Thomas W. Heald, Esq. with any Questions with respect to this newsletter.

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The Rhode Island Supreme Court may consider this material advertising.



Contractors' Registration and Licensing Board
 Division of Capital Projects and Property Management
 One Capitol Hill
 Providence, Rhode Island 02908
 Web Site: www.crb.state.ri.us
 Telephone # (401) 222-1268

Information beneficial to consumers when entering into a contract:

NOTICE OF POSSIBLE MECHANIC'S LIEN

To: _____

(Insert name of owner, lessee or tenant, or owner of less than the simple fee.)

The undersigned is about to perform work and/or furnish materials for the construction, erection, alterations or repair upon the land at _____

(INSERT ADDRESS)

under contract with you. This notice that the undersigned and any other persons who provide labor and materials for the improvement under contract with the undersigned may file a mechanic's lien upon the land in the event of nonpayment to them. It is your responsibility to assure yourself that those other persons under contract with the undersigned receive payment for their work performed and materials furnished for the construction, erection, alteration or repair upon the land. Failure to adhere to the provisions of this subsection may result in a one thousand dollars (\$1,000) fine against the contractor.

Pursuant to RIGL 5-65-18 all written contracts entered into between a contractor and a property owner must contain a statement that the contractor, subcontractors, or material persons may file a lien in accordance with the Rhode Island Mechanics Lien Act, chapter 28 of title 34.

Beneficial Information to Consumers
Summary of Registration Law (R.I.G.L. Title 5 Chapter 65)
Web Site: www.crb.state.ri.us Telephone Number (401) 222-1268

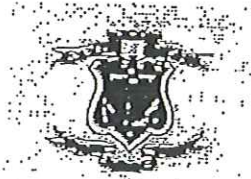
Contractor Registration

Rhode Island state law requires anyone who is in the business of home construction, alterations, remodeling, or repair to a residential structure to be registered with the state. This includes partnerships, corporations, and self employed individuals, whether working by the hour, week, job, or "cost plus", whether by a written contract or oral agreement. The law also applies to anyone advertising, bidding, or otherwise offering or arranging to do or have such work performed including painting, roofing, floor covering, framing, finish carpentry, and many more building specialties. Violations of the law can result in penalties of up to \$10,000.00 per offense as well as criminal prosecution for non-compliance of final orders issued by the board.

- Does the contract have the contractor's registration number listed?
- What are the terms of cancellation? Contracts entered into must contain a notice of rescission as stipulated in all pertinent R.I. consumer protection laws, pursuant to RIGL 5-65-3 (h) (iii). If signed outside of the place of business, Rhode Island General Law 6-28-4, clearly states that no agreement of the buyer in a door-to-door sale shall be effective unless it is signed and dated by the buyer and unless it contains the following in ten (10) point bold face type or larger directly above the space reserved in the agreement for the signature of the buyer: Notice to buyer: (1) Do not sign this agreement if any of the spaces intended for the agreed terms to the extent of then available information are left blank. (2) You are entitled to a copy of this agreement at the time you sign it. (3) You may at any time pay off the full unpaid balance due under this agreement, and in so doing you may be entitled to receive a partial rebate of the finance and insurance charges. (4) The seller has no right to unlawfully enter your premises or commit any breach of the peace to repossess goods purchased under this agreement. (5) You may cancel this agreement if it has not been signed at the main office or a branch office of the seller, provided you notify the seller at his or her main office or branch office shown in the agreement by registered or certified mail, which shall be posted not later than midnight of the third calendar day after the day on which the buyer signs the agreement, excluding Sunday and any holiday on which regular mail deliveries are not made. (see the RIGL 6-28 for more information regarding this law)
- Insurance! The Rhode Island contractors' registration law requires contractors to maintain a minimum of \$500,000.00 in liability insurance. In addition, contractors with employees are required to maintain workers' compensation insurance. Insist that a current certificate of the company's insurance policy be sent directly to you from their insurance carrier / agent with your name and address on it listing you as a certificate holder before any work begins.
- What are the payment terms? Payments should be made pursuant to the terms of the written contract. Consider and question the amount of the deposit which can vary depending on type of work. (i.e. Special orders, etc.)
- What is the time frame? Provide start date, finish date? Maybe a reward or penalty clause should be included if time is of the essence.
- Is there an arbitration clause in the contract? Who is paying for that service? Read the fine print and make sure you know the terms.
- Permits? Is this included in your contract, or are you taking care of it? This is for your safety!
- Contracts: All contracts exceeding \$1,000.00 in value must be in writing.
- Disclaimer: The above information is provided by the board pursuant to 5-65-3 and does not encompass all the recent amendments to the general law, for additional information please contact the Board or visit our website.

RHODE ISLAND
CONTRACTORS REGISTRATION BOARD

*Safe guarding Consumers rights and providing a fair,
just and positive environment for the construction
industry*



Contractors Registration Board

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Phone (401) 222-1268
Fax (401) 222-1940
TDD (401) 222-6334
Web Site: <http://www.crb.state.ri.us>

About the Contractors Registration Board

- Established in 1989 by the RI General Assembly
- Consist of 9 Board Members
- Operates within the Department of Administration, the building code commission, under the direction of George W. Whalen, Executive Director

Jurisdiction of the Board

- Regulates by registration - Residential Contractors and Commercial Roofers.
- Regulates by licensing -- Home Inspectors

Dispute Resolution Process

- A \$25.00 processing fee is required
- Claims Heard by the board include:
 - Homeowner against registered contractors for alleged negligence, improper work, and breach of contract or release of a mechanics lien.
 - Contractor against Contractor for: alleged negligence, improper work, and breach of contract or release of a mechanics lien.
 - Employee against contractor.

Enforcement Procedures Include:

- Non-registered contractor complaints
- Violations of RI General Laws 5-65-19

Criminal Prosecutions

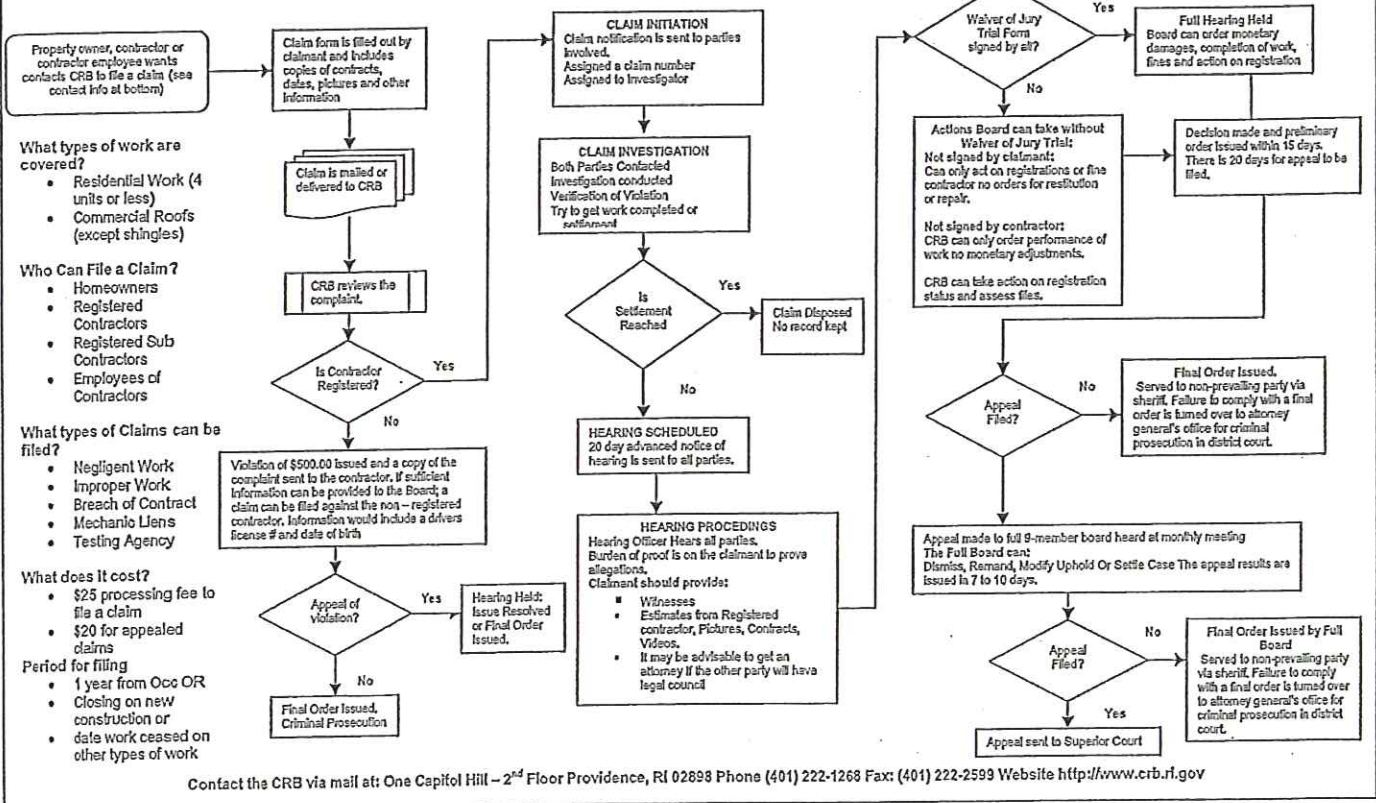
- Violations of Final Orders and Non Registered Contractor Complaints may be prosecuted as misdemeanors by the RI Department of Attorney General in accordance with RI GEN LAW S5-65-19

Agency Appeals

- After a hearing, a proposed order is issued which can be appealed to the full board, then to the RI Superior Court and finally to the RI Supreme Court.

Contact the CRB via mail at: One Capitol Hill - 2nd Floor Providence, RI 02898 Phone (401) 222-1268 Fax: (401) 222-2599 Website <http://www.crb.ri.gov>

Rhode Island Contractors Registration Board Dispute Resolution Process



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