

CONCISE EXPLANATORY STATEMENT

In accordance with the Administrative Procedures Act, R.I. Gen. Laws § 42-35-2.6, following is a concise explanatory statement:

AGENCY: Contractors' Registration and Licensing Board

DIVISION:

RULE IDENTIFIER: RICR Citation 440-RICR-10-00-1; ERLID effected by proposed rule: 8061

RULE TITLE: General Rules and Regulations for Registration, Licensing and Filing Claims

REASON FOR RULEMAKING: The following regulation was reformatted and reorganized to comply with the Administrative Procedures Act and Secretary of State's formatting requirements. In the past, separate rules and regulations existed for each discipline that the Board governs. The result was voluminous, stand-alone rules and regulations for each discipline that contained repetitive information. In this regulation, shared information that applies to all disciplines (including administration, general definitions, claims, violations, and education) appears once, and repetitive and non-regulatory information has been removed.

ANY FINDING REQUIRED BY LAW AS A PREREQUISITE TO THE EFFECTIVENESS OF THE RULE:

TESTIMONY AND COMMENTS: Provide the reasons for not accepting arguments made in testimony and comments.

Comment ID : #10231-6

The CRLB is provided the authority to investigate and attempt resolution to disputes arising from the filing of a mechanic's lien against a residential property pursuant to RIGL § 5-65-11 (2). This comment does not warrant any further consideration or discussion.

Comment ID : #10231-8

There was a misunderstanding on behalf of the individual posting this comment. Neither statute, nor the proposed Rules and Regulations require Pre-registration Education for water filtration/pump installers, either 'Grandfathered' or not.

Comment ID : #10231-9

There does not appear to be any significant relevance to these comments as they pertain to the proposed Rules and Regulations as currently posted.

Comment ID : #10231-18

"Deletion of the rules and procedures...., The Board should have published procedures.....";

Procedures for Board meetings should not be included as part of the Rules and Regulations, since any mistake or deviation from the established procedures, regardless of its magnitude would constitute a violation of procedures. Utilizing a recognized set of rules of order for meeting procedures is a well-established alternative.

"Additionally, the records retention schedule and destruction of records should also be part of these regulations."

Record retention schedules and processes are established and regulated by the Rhode Island Secretary of State. The Board has no jurisdiction over these processes, therefore should not be publishing [them] within any of our documents.

"Title 5 missing also APA-RIGL'S of 1956 as amended which allowed for the adoption."

The proposed revisions relate strictly to the Board's Rules and Regulations - Title 5 is statute and not within the Board's jurisdiction to modify.

"Purpose: never mentions to become registered or licensed as a contractor."

This section authorizes the Board to establish the provisions, qualifications and procedures for registering and licensing those disciplines governed by the Board. This includes "contractors".

"Definitions: need to add new definitions from recently enacted legislation in 5-65-27";

This information is included in statute - there is no need to reiterate in Rules and Regulations.

"The use of the lettering in the definitions is somewhat confusing and should have a numbering system..."

The formatting of the revised Rules and Regulations is dictated by the Office of Secretary of State (SOS) and needs to be adhered to for all Rules and Regulations.

"H, J & K: Claimant could be the board if it was presenting a violation against the contractor and should..."

Language relative to this is provided for in Section 1.5.6 (E); *Board Representation by Officer, Staff or Employee*

"O: Contractor definition in the law references 'who arranges' and is much clearer than the regulation."

This information is included in statute – there is no need to reiterate in Rules and Regulations.

"X : Good standing should be clearly emphasizing the contractor otherwise opens door for other type of licenses..."

As the Rules and Regulations clearly state which businesses and individuals the Board regulates, there is no reason to further indicate who those are

"KK: Residence should also include its appurtenance such as garages, decks etc....."

The term "appurtenance", and how it is dealt with in the field, is different for each discipline. The term appurtenance is defined differently in each discipline and therefore the term should not be added to the general definition of residence/residential building that is applicable to all disciplines.

"Speculative is missing from this (definitions) section and should be included because it is in the general law and needs clarification in the regulations to make it clear."

This definition is included in statute – there is no need to reiterate in Rules and Regulations.

"1.5.4-A-4: third party testing agency if respondent is at fault must be paid by contractor."

This comment cites the wrong section – a provision is included in the section relating to the \$25 statement of claim fee.

"1.5.5-A-5: except to enforce mechanics lien."

The same issues involved in ANY claim, includes mechanic lien claims. The existing provision is correct as stated.

"1/5/5-A-6: One year on repair from date of completion."

Provisions for the implied one-year warranty for repairs relative to claims are covered per 1.5.5 (A) 6

"1.5.6.C1: Notice in emergency situations due to inclement weather, accident or death."

The Executive Director maintains discretion on what constitutes an emergency. It should not be necessary to include specifics.

1.5.6-F: Recordings of hearings is imperative and provides accuracy and transparency, both Board meetings as well as all hearings before hearing officers. Section 1.5.6 -A. stipulates *"Such hearings are recorded."* There is no reason to reiterate this.

1-6.1 B: Liens being placed by board has to be better documented here so proper action can take place making the collection of restitution and fines easier. Has to be elaborated to make sure a clear approach is in place to file liens against contractors or corporations.

Language relative to the Board's authority to file Mechanic's Liens requires thorough review and preparation, which will be further studied before finalizing.

1.6.4 A: Tickets / Violations: This section needs clarity; violations do not have to be issued with tickets but could be result of other findings by the board such as insurance lapse or advertising.

The Board's authority to issue tickets and violations is clearly spelled out at the beginning of this section, however the Board's procedure for issuing/processing violations makes it sound as if the Board may only issue tickets in the field. We are striking language so that the Board may continue to issue tickets and violations in the variety of ways that it is authorized to do so.

Comment ID : #10231-23

The Board maintains the authority to consider the reinstatement of a suspended or revoked registration based upon the registrant's history with the CRLB and the mitigating factors leading to the action taken to suspend/revoke said registration, without the need for public comment or intervention.

CHANGE TO TEXT OF THE RULE:

The words "*or oral*" have been added to and the word "describing" replaces "spells out" in the definition of "Contract"

The words "*history of compliance with the education requirements*" have been added to Section 1.4.3 (C) (a) (9)

Section 1.4.3 (D) (1) (f); "*A ten dollar (\$10.00) fee for a digitized photograph taken by the Board for the registration/license card/certificate, if required;*" has been removed in its entirety.

Section 1.5.3 (A) (2); "*Claim Against Commercial Roofing Contractor: The Board will accept claims filed by an owner of a structure concerning work performed on a nonresidential structure by a licensed commercial roofing contractor, or one required to be licensed.*" Has been removed in its entirety, as the Board does not have the ability per statute to accept such claims.

Section 1.6.4 (A.) now reads;

“Tickets / Violations: Investigative and Board staff members may issue tickets and/or violations to registrants/licensees or those required to be registered/licensed with the Board, for violations of each discipline’s respective statutory chapter and these rules and regulations. Upon receiving a ticket or violation, a respondent may request a hearing.

The words *“The \$100 per credit-hour fee(s) for continuing education courses offered by not-for profit, industry related trade associations, government. organizations or agencies shall be waived.”* Have been added to Section 1.7.10 (B) 16.

REGULATORY ANALYSIS:

This regulation imposes no societal cost or cost of compliance and offers the benefit of providing a structure to uniformly regulate those disciplines governed by the Contractors’ Registration and Licensing Board in the State of Rhode Island and provides a cost-effective claim process to resolve consumer and contractor disputes. For full regulatory analysis or supporting documentation see agency contact person listed for the Board. In the development of the proposed adoption, consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information