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## **TITLE 440 – CONTRACTORS’ REGISTRATION AND LICENSING BOARD**

### **CHAPTER 10 – GENERAL ADMINISTRATION, REGISTRATION, LICENSING, AND FILING CLAIMS**

#### **SUBCHAPTER 00 – N/A**

PART 1 – General Rules and Regulations for Registration, Licensing and Filing of Claims

#### **1.1 Authority**

These rules and regulations are promulgated pursuant to the Rhode Island Contractors’ Registration and Licensing Board Law, R.I. Gen. Laws § 5-65-1 *et seq.*; the Rhode Island Home Inspector Licensing Law, R.I. Gen. Laws § 5-65.1-1 *et seq.*; the Rhode Island Well-Drilling, Pump Installers, and Water-Filtration Contractors Licensing Law, R.I. Gen. Laws § 5-65.2-1 *et seq.*; the Rhode Island Underground Utility Contractors’ Licensing Law, R.I. Gen. Laws § 5-65.3-1 *et seq.*; the Rhode Island Commercial Roofing Licensing Law, R.I. Gen. Laws § 5-73-1 *et seq.*; and in accordance with the Rhode Island Administrative Procedures Act, R.I. Gen. Laws § 42-35-1 *et seq.*

#### **1.2 Purpose**

The purpose of these rules and regulations is to implement the statutory provisions authorizing the Contractors’ Registration and Licensing Board to establish provisions, qualifications and procedures for registering and licensing those disciplines governed by the Board, and to promote public safety, health and welfare by providing a mechanism to ensure that all persons conducting business in the regulated disciplines within the State of Rhode Island have the requisite skills, training, and experience necessary to safely and adequately conduct those activities within the state. State law requires every person who engages in a discipline governed by the Board to be properly registered or licensed with the Contractors’ Registration and Licensing Board (“CRLB” or “the Board”). Any person who fails to properly register or become licensed in their respective discipline, as stipulated, is subject to penalties for operating without a license or registration.

#### **1.3 General Definitions**

- A. "Agent of service" or "Registered agent" means a business or individual designated by the registrant/licensee upon whom any process, notice, or demand required or permitted by law to be served upon the corporation or individual

registrant/licensee may be served. An attorney licensed and located in Rhode Island or a company listed by the Rhode Island Secretary of State may serve as an agent of service.

- B. "Applicant" means any person seeking to obtain a registration or license that is issued by the Contractors' Registration and Licensing Board.
- C. "Architectural service" means any practice involving the art and science of building design for construction of any structure or grouping of structures and the use of space within and surrounding the structure(s) or the design for construction, including but not specifically limited to, schematic design, design development, preparation of construction contract documents, and administration of the construction contract.
- D. "Architectural study" means a study requiring architectural services.
- E. "Board" or "CRLB" means the staff and appointed members of the Contractors' Registration and Licensing Board.
- F. "Building officials" means the officials charged with the administration and enforcement of the Rhode Island State Building Code.
- G. "Claim" means a matter for which a statement of claim form has been filed by a person who has a direct contractual relationship with a registrant/licensee, or one who is required to be registered/licensed, which the Board may investigate and may render a final decision upon.
- H. "Claimant" means an individual who files a claim against a registrant/licensee, or one who is required to be registered/licensed, and who has a direct contractual relationship with that person.
- I. "Commission" means the Building Code Commission supportive of the Contractors' Registration and Licensing Board and the CRLB staff.
- J. "Complaint" means Claim.
- K. "Complainant" means Claimant.
- L. "Condominium" means real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.
- M. "Continuing education credit" means the credit unit awarded after a person receives instruction related to the discipline for which that person is registered/licensed with the Board. Different disciplines may require a different number of credit units to maintain a registration/license, and the credit must be

issued by a Board approved provider to be valid. Fifty (50) minutes of instruction equals one (1) credit hour.

- N. "Contract" means the written or oral agreement between the client and the registered/licensed person or person required to be registered/licensed, describing the responsibilities and duties of each party and the fee to be paid.
- O. "Contractor" means a person who has a contract, either oral or written, with the owner of a structure to perform work subject to the authority of the Board, who may engage one or more subcontractors to perform all or part of the work, and who may have responsibility for the entire project which is the subject of the contract. See discipline subsections in these rules and regulations for specific information concerning which individuals need to be registered/licensed with the Board.
- P. "Developer" means a person who owns property and contracts with a general contractor to construct, improve, or alter one or more buildings or structures on the land for the purpose of selling or leasing those buildings or structures, and who is required to be registered with the Board pursuant to R.I. Gen. Laws § 5-65-1(3)(i).
- Q. "Dishonest or fraudulent conduct injurious to the welfare of the public" means conduct that includes, but is not limited to, any of the following:
  - 1. Acting in a manner that, because of a wrongful or fraudulent act(s) by the applicant, registrant, or licensee results in injury or damage to another person;
  - 2. Failing to pay monies when due for materials or services rendered in connection with the applicant's, registrant's, or licensee's operations when the applicant, registrant, or licensee has received sufficient funds as payment for the particular construction work project or operation for which the services or materials were rendered or purchased;
  - 3. Accepting payment in advance on a contract or agreement and failing to perform work or provide services required by the contract or agreement and failing to return the payment;
  - 4. Giving false, misleading or deceptive advertising whereby a reasonable person could be misled or injured;
  - 5. Using a revoked, invalid, or suspended registration or license; or
  - 6. Working using another person's registration or license.
- R. "Employee" means any person permitted to work by an employer, who receives wages, except that independent contractors or subcontractors shall not be considered employees. Anyone who performs services for an employer is an

employee if the employer can control what will be done and how it will be done. An employee is generally subject to the business's/employer's instructions about when, where and how to work, i.e., instructions about how to do work, such as:

1. when and where to do the work;
  2. what tools or equipment to use;
  3. what workers to hire or to assist with the work;
  4. where to purchase supplies and services;
  5. what work must be performed by a specific individual; and
  6. what order or sequence to follow when performing work.
  7. Documents such as W-2's, payroll taxes, and IRS forms may be requested by the Board to substantiate an employee's status.
- S. "Employer" means any individual, firm, partnership, corporation, limited liability corporation, association, joint venture, trust, receiver, or other like officer appointed by a court of this state, and any agent or officer of any of the above mentioned, employing any person in this state. An employer with one or more employees is required to have proper workers' compensation coverage in accordance with R.I. Gen. Laws § 28-29-1 *et seq.*
- T. "Engineering services" means any professional service or creative work provided by a licensed or registered engineer, which requires engineering education, training, and experience; and the application of special knowledge of the mathematical, physical, and engineering sciences to such professional service or creative work as consultation, investigation, evaluation, planning, design and supervision of construction for the purpose of assuring compliance with the specifications and design, in conjunction with structures, buildings, machines, equipment, works, or processes.
- U. "Executive Director" means the Executive Director of the Contractors' Registration and Licensing Board.
- V. "Expungement" means the removal, deletion or erasing of information from a registrant's or licensee's record that is accessible to the public.
- W. "Flipping" means when a person performs, employs others to perform, or for compensation with the intent to sell the structure, arranges to have performed any work described in R.I. Gen. Laws § 5-65-1(3) if within a twelve-month period offers for sale that structure on which that work was performed and who is required to be registered with the Board.

- X. "Good standing" means an applicant who seeks to obtain or renew a registration/license must not have any unresolved claims, violations, penalties or fines with the Board for any registration/license held by the applicant or its principal, nor with any other municipal, state, or federal regulatory authority in Rhode Island or elsewhere.
- Y. "Inactive registration/license" means a registration/license that has lapsed, expired, or has been suspended, surrendered, revoked or invalidated.
- Z. "Incapacity" or "Incapacitated" means an ailment that renders an active registrant/licensee unable to perform the work of the discipline for which they are registered/licensed, as a result of mental or physical loss or impairment of bodily function or debilitating pain.
- AA. "Licensee" means any person who has obtained a license for any of the disciplines governed by the Board's authority, including but not limited to those defined in R.I. Gen. Laws Chapters 5-65.1 (Home Inspectors), 5-65.2 (Well Drilling/Pump/Filtration Contractors), 5-65.3 (Underground Utility Contractors) and 5-73 (Commercial Roofers).
- BB. "Monetary damages" means the dollar amount required in excess of the contract amount to provide the claimant what was agreed to be provided under the terms of the contract minus any amount due and unpaid to the registrant/licensee.
- CC. "Nature and complexity" means, but is not limited to, the following meanings:
1. Involves legal issues outside the scope and expertise of the Board;
  2. Requires rulings on persons or entities outside the jurisdiction of the Board; or
  3. Involves technical, expert, or other issues outside the scope and expertise of the Board.
- DD. "Occupancy" means, but is not limited to, the time of issuance of a certificate of occupancy or the time of receipt of a letter of completion of the construction by the Building Official.
- EE. "Owner" means any person or his/her agent who holds title or other rights to a property.
- FF. "Permits" means documentation that must be obtained from the state or local building department of each city or town in which work is to be performed prior to the commencement of work.
- GG. "Person" means an individual, self-employed individual, sole proprietorship, partnership, limited liability company, corporation, trust or joint venture.

- HH. "Public body" or "Public agency" means any executive, legislative, judicial, regulatory or administrative body of the state or any political subdivision thereof; including, but not limited to, public officials elected or appointed and any department, division, agency, commission, board, office, bureau, authority, any school, fire, or water district, or other agency or quasi-public agency of state or local government which exercises governmental functions.
- II. "Pursuit of an independent business" or "Working as an independent contractor" means that the person operates as an independent contractor. Evidence of operating as an independent contractor and not as an employee may include, but not be limited to, the following criteria:
1. The person is free from close supervision by the homeowner or contractor over the details of the work being performed, including hours of work;
  2. The person enters into a contract, either oral or written, which calls for the completion of certain work on a specific project or job site for which payment is made on a per-hour, time-and materials, barter, or entire job basis;
  3. The person may have one or more effective contracts at any one time;
  4. The person hires and supervises other subcontractors and/or employees and may be responsible for business insurance and payroll taxes if help is hired;
  5. The person enters into a contract, either oral or written, which does not require the employer to consider remuneration paid to be wages for the purposes of unemployment compensation benefits, workers' compensation payments, or federal or state withholding;
  6. The person uses as normal business practice telephone services, business cards, or any form of advertising;
  7. The person furnishes substantially all of the equipment, tools, and supplies necessary to carry out contractual obligations; and
  8. The person is not an independent contractor if he/she performs services that can be controlled by an employer (what will be done and how it will be done).
  9. Documents such as 1099's, taxes and IRS forms may be requested by the Board to substantiate an independent contractor's status, and the Board may also consider IRS definitions and criteria in determining the independent contractor's status.
- JJ. "Registrant" means any person who has obtained a registration for any of the disciplines governed by the Board.

- KK. "Residence/residential building" means a structure that consists of one or more dwelling units.
- LL. "Respondent" means the person against whom an enforcement action is taken or against whom a claim is made.
- MM. "Revoke" means the termination of a registration or license by the Board.
- NN. "Structure" means:
1. any residential or commercial building; or
  2. any building containing one or more residences and their appurtenances. Structure may also include modular and mobile homes, which come within the jurisdiction of the Board as structures at the time they are placed on support blocking or permanent foundations in the place they will be used.
- OO. "Subcontractor" means a person or entity who has a contract, either oral or written, not with the owner of the structure but with a registrant/licensee or one who is required to be registered/licensed, to perform work subject to the Board's authority, and who is responsible for a specific portion of the project. Although a contract may state the worker is a subcontractor, this is not determinative of the worker's status and the Board may consider how the parties work together to determine whether the worker is a subcontractor or otherwise.
- PP. "Substantial completion" means the time at which, but is not limited to, the following events: final inspection is approved; certificate of occupancy is issued; the building or structure or portion of building or structure is in a habitable or usable condition; most or all of the payment has been provided; when an owner would reasonably conclude that the contractor had fulfilled his/her obligations under the contract and that final payment was due.
- QQ. "Violation" means an infraction of relevant statutes, rules, standards, orders, license, compliance schedule, or any part thereof and may include both acts and omissions.
- RR. "Wages" means all amounts at which the labor or service rendered is paid, whether the amount is fixed or ascertained on a time, task, piece, commission basis, or other method of calculation.
- SS. "Work period" means the time period from the date a contract is entered into until the date the contracted work is substantially completed by the original registrant/licensee, or if not substantially completed, the date work by the original registrant/licensee ceased.

## **1.4 General Administration**

### **1.4.1 Notice of Proposed Regulation**

Before adopting, amending, or repealing any rule, the Board shall give notice of the proposed adoption, amendment, or repeal as required by the Administrative Procedures Act, R.I. Gen. Laws Chapter 42-35.

#### **1.4.2 Temporary Regulation**

- A. The Executive Director may adopt, amend, or suspend a regulation pursuant to R.I. Gen. Laws Chapter 42-35.
- B. In the event of a catastrophic event or imminent peril, the Board may waive certain requirements of these Rules and Regulations, or delay certain aspects.

#### **1.4.3 General Procedures**

- A. The procedures for administrative hearings of the Board and its administrative hearing officers shall operate pursuant to R.I. Gen. Laws Chapter 42-35.
- B. Delivery of Notices:
  - 1. Time for response to all notices sent by the Board shall run from the date of mailing from the Board, utilizing calendar days.
  - 2. The registrant/licensee is responsible for notifying the Board of any change of address while registered/licensed, and for one (1) year following the date that the registration/license expires or otherwise becomes inactive. The registrant/licensee must notify the Board of any change of address in writing and within ten (10) days of the date upon which the change of address occurs. Proposed orders, final orders, notices of hearings, and other notices mailed by the Board to the last known address of record are considered delivered when deposited in the mail.
- C. Information Requests
  - 1. A claim filed with the Board will initially be classified as under investigation, and any information in regard to that claim will not be provided in response to a telephone inquiry or written request until such time as a Board investigator has had the opportunity to review the matter filed. Upon investigation and a determination that the claim is valid, information related to the claim will be deemed public record. Once the claim is sent to an administrative hearing, the information related to the claim status will be posted electronically and will remain on the registrant's/licensee's record, unless expunged by the Board. Matters expunged by the Board will not be available for information request. A claim adjudicated in favor of the registrant/licensee shall be removed from the record of the registrant/licensee as soon as practicable or as consistent with Rhode Island General Laws, and at such point will no longer be available for information request.

- a. The Board will provide the following information in response to written, telephone, or email requests for registration/license information relating to a specific person:
- (1) Whether or not the person is or has ever been registered/licensed;
  - (2) The registration/license number(s);
  - (3) The business name(s) used by the entity of record with the Board;
  - (4) Type of business organization (i.e. individual proprietorship, partnership, LLC, corporation or joint venture);
  - (5) Personal name(s) of owners, partners, or corporate officers;
  - (6) Last known address of the registrant/licensee;
  - (7) Expiration date or date upon which the registration/license became inactive and the reason it became inactive;
  - (8) The date the person first became registered/licensed;
  - (9) Status of the registration/license, history of compliance with the education requirements, validity of insurance and/or bond, and the insurance or bonding company name (as provided to the Board by the registrant/licensee); and
  - (10) Number, status, type, date filed, and alleged amount of fines or awards of proposed orders, final orders, claims, violations, or notices of hearings on record.
- b. If no claims have been recorded or if it appears to the Board that the person about whom the inquiry is being made is unregistered/unlicensed, the requesting party will be given the information listed in § 1.4.3(C)(1)(a) of this Part.
- c. The Board shall provide a certification of registration/license relating to a specific person upon written request and payment of the required fee. This certification will include the following information:
- (1) Registration/License number(s);
  - (2) Name of the registered/licensed person and any business name(s) on file with the Board;

- (3) Type of business (i.e., individual proprietorship, partnership, LLC, corporation or joint venture);
  - (4) Name(s) of owner(s), partner(s), or corporate officer(s) provided to the Board; and
  - (5) Pertinent dates and actions in the registration/license history.
- d. If more information is requested than that listed in §§ 1.4.3(C)(1)(a) or (c) of this Part, the request for information should be made in writing or by email to the Board.
  - e. Access to Public Records requests to the Board will be processed in accordance with the Access to Public Records Act, R.I. Gen. Laws § 38-2-1 *et seq.*
  - f. If no claims have been recorded or if it appears to the Board that the person about whom the inquiry is being made is not registered or licensed, the caller will be given this information by telephone.

D. Filing Fees and Record Changes:

1. The Board may impose the following charges for records and filing fees:
  - a. A \$10.00 fee for each certification that a person or entity has or has not been registered/licensed with the Board;
  - b. A \$10.00 fee for certified copies of documents;
  - c. A \$5.00 fee for every thirty-five (35) copies made, or fifteen cents (\$0.15) per copied page of written documents copied on common business or legal size paper (or costs as otherwise provided under R.I. Gen. Laws § 38-2-4);
  - d. A thirty-five dollar (\$35.00) fee per recording of hearing officer and Board administrative hearings;
  - e. A one-hundred dollar (\$100.00) fee for a paper copy or electronically provided list of registrants/licensees. Requesting parties shall bear the cost of mailing. Lists will be provided free of charge to municipal and state building departments;
  - f. A twenty-five dollar (\$25.00) filing fee shall be imposed for any claim filed with the Board, with an exemption for state and municipal agencies;
  - g. A twenty dollar (\$20.00) fee for any filing of exceptions/appeals to the Board;

- h. A twenty-five dollar (\$25.00) fee for each replacement registration/license card/certificate and lost card/certificate affidavit;
  - i. A twenty dollar (\$20.00) fee for any additional registration/license card/certificate for employees, officers or partners;
  - j. A twenty-five dollar (\$25.00) fee to change the responsible person on a registration/license;
  - k. A twenty-five dollar (\$25.00) fee to change the ownership of a registration/license;
  - l. A twenty-five dollar (\$25.00) fee to change the name of the registrant/licensee or company; and
  - m. A twenty dollar (\$20.00) fee will be assessed for each expungement request regarding a single claim and/or violation. A five dollar (\$5.00) fee will be assessed for each additional claim and/or violation sought to be expunged under the same request.
- 2. The Board shall not refund fees or civil penalties, unless an administrative error occurred.
  - 3. The Board shall not incur any fees for Board action on a registration/license or during an appeal.
  - 4. No fee shall be charged for changes to an address of record.

## **1.5 Claims Process**

### **1.5.1 Prerequisites for filing a Claim**

- A. The Board will only accept claims concerning work or services performed within the boundaries of the State of Rhode Island, or for materials or equipment supplied or rented for fabrication into or use upon structures located within the boundaries of the State of Rhode Island. Unless otherwise specified, the Board will only accept claims where the claimant and respondent have a direct contractual relationship, employment relationship, or a relationship based on assignment.
- B. Unless otherwise specified, claims must be submitted within one (1) year after work was completed or ceased, one (1) year from the date the contract was entered into, or one (1) year from the failure to complete date. Notwithstanding these timeframes, whenever a claimant shall notify, in writing, a registrant/licensee of any issue with work performed within one (1) year of the completion of the work and said problem has not been corrected, the aggrieved party shall have up to two (2) years from the date of completion of the work to file a claim with the Board.

### **1.5.2 Claim Submission**

- A. Claims must be submitted on the Statement of Claim form provided by the Board, along with a twenty-five dollar (\$25.00) non-refundable processing fee. Submitted claims are considered filed when a completed Statement of Claim form and the applicable fee have been received by the Board.
- B. When submitting a claim, claimants are encouraged to provide copies of all supporting documentation, including but not limited to:
  - 1. Written contracts and agreements;
  - 2. Invoices;
  - 3. Billings;
  - 4. Estimates;
  - 5. Receipts;
  - 6. Cancelled checks;
  - 7. Court or arbitration information/judgments; and
  - 8. Notices of counter claims by respondents.

### **1.5.3 Types of Claims Accepted by the Board**

- A. Contract Disputes and Allegations of Breach of Contract and/or Negligent/Improper Work:
  - 1. Claim Against Residential Contractor: The Board will accept claims filed by an owner of a structure concerning work performed by a registered contractor, or one required to be registered, on a residential structure or residential portions of a commercial structure and their appurtenances.
  - 2. Claim Against Well Drilling Contractor/ Pump Installer/ Water-Filtration Contractor/ Water-Filtration Installer: The Board will accept claims filed by an owner of a structure or property concerning work performed by a licensed well drilling contractor, pump installer, water-filtration contractor or water-filtration installer, or one required to be licensed, concerning work performed on a residential structure or residential portions of a commercial structure.
  - 3. Claim Against Underground Utility Contractor: The Board will accept claims related to work performed on residential or commercial structures and property by a licensed underground utility contractor, or one required to be licensed. A claim may be submitted by any person, organization, or

any state or municipal authority charged with inspecting underground utility work, where sufficient evidence exists that a violation of R.I. Gen. Laws § 5-65.3-1 *et seq.* or these rules and regulations has occurred. All claims must be filed with the Board within one (1) year of the alleged violation. State and municipal authorities are exempt from paying a claim filing fee.

a. Requirements for the above listed claims:

- (1) Within the claim filing period, a claimant should notify the contractor in writing of the items of concern to the claimant to correct the issue(s) presented prior to filing a claim with the Board. Upon filing a claim with the Board, the claimant must provide the Board with a copy of this writing sent to the contractor identifying the claimant's concerns and/or items to be corrected. Failure to provide the Board with evidence of this written notice to the contractor may result in the Board not processing the claim.
- (2) The Board will only accept claims concerning work or services performed during the time that a contract, written or oral, was entered into until the time the work ceased or was substantially completed.

B. Claim Against Home Inspector/ Associate Home Inspector:

1. The Board will accept claims from claimants with a direct contractual relationship with a home inspector, associate home inspector, or person required to be licensed as a home inspector. Because a home inspector is responsible for the actions of any associate home inspector performing under the home inspector's license and supervision, any claims pertaining to an associate home inspector may be brought against the supervising home inspector.
2. Requirements:
  - a. Claims must be submitted to the Board within one hundred-eighty (180) days from the date that the claimant received the home inspector's written report. Any claim received after the one hundred-eighty (180)-day period will not be accepted.
  - b. Prior to filing a claim with the Board, the claimant must first notify the home inspector of the problem or issue and allow the home inspector to re-inspect and/or otherwise resolve the issue.
  - c. For any matters that may be covered by the home inspector's errors and omissions insurance or liability insurance, the claimant must first file a claim with the insurance carrier prior to filing a claim

with the Board. A subsequent decision of the insurance company may be submitted to the Board to take action against the home inspector's license.

C. Claims involving mechanics' liens:

1. A claim may be filed by an owner of property against a registrant/licensee, or one required to be registered/licensed, to discharge or to recoup funds expended in discharging a mechanics lien. A mechanics lien claim may not include excess interest paid as the result of the owner's inability to refinance at a lower interest rate due to the existence of the lien.
2. Requirements: The claim form shall be accompanied by evidence that the claimant has paid the registrant/licensee or one required to be registered/licensed, a copy of the notice of right to lien, a copy of the lien bearing the city or town recorder's stamp and signature, any foreclosure information, and all invoices, billings and other accountings used as a basis for the lien.

D. Contractor Against a Subcontractor:

1. A claim may be filed by a registered/licensed contractor against another registered/licensed subcontractor. Claims filed by registered/licensed contractors will not be accepted against a non-registered/non-licensed subcontractor.
2. Requirements:
  - a. Contractors filing a claim must be properly registered/licensed with the Board. The claimant must have been registered/licensed at the time the bid was made or the contract was entered into and continuously throughout the work period before the claim will be accepted.
  - b. The subcontractor against whom the claim is filed will be considered registered/licensed under the Board's authority if that person was registered/licensed during all or part of the work period.
  - c. The registration/license requirement for claimants does not apply to persons who are exempt from Board's registration/licensing requirements.

E. Subcontractor Against a Contractor:

1. A claim may be filed by a registered/licensed subcontractor arising out of a contract between the subcontractor and a general contractor or other subcontractor for unpaid labor and/or materials furnished under a contract.

2. Requirements:

- a. This type of claim will not be accepted by the Board unless the subcontractor/claimant was registered/licensed and subject to the Board's authority at the time the bid was made or the contract was entered into, and continuously throughout the work period.
- b. The contractor against whom the claim is filed will be considered registered/licensed if that person was registered/licensed during all or part of the work period.
- c. The registration/license requirement for claimants does not apply to persons who are exempt from the Board's registration/licensing requirements.
- d. Subcontractor claims must be accompanied by copies of each original invoice relating to the claim and a summary showing the date, number, amount, and description for each invoice submitted.

F. Employee for Unpaid Wages:

- 1. A claim may be submitted for unpaid wages, filed by an employee of a registrant/licensee.
- 2. Requirements:
  - a. The person against whom the claim is filed will be considered registered/licensed if that person was registered/licensed during all or part of the work period.
  - b. An employee claim against a non-registered/licensed contractor will not be accepted.
  - c. The employee claimant is exempt from the registration/licensing requirement based on the employment relationship with a registered/licensed contractor employer.
  - d. The claim must include evidence to support allegations of non-payment, including payroll records, time cards or other evidence of time worked.

G. Material and/or Equipment Supplier:

- 1. A claim may be filed by a registered/licensed supplier who has not been paid for materials sold to a registrant/licensee to be used and installed in a structure, or for the rental of equipment to a registrant/licensee to be used in the performance of the work of a registrant/licensee in connection with a structure. A claim may not be made for nonpayment for tools sold to a

registrant/licensee, for equipment sold to a registrant/licensee and not fabricated into a structure, for interest or service charges on an account, or for materials purchased as stock items.

2. Requirements:

- a. This type of claim will not be accepted by the Board unless the claimant was registered/licensed and subject to the Board's authority at the time the bid was made or the contract was entered into, and continuously throughout the work period.
- b. The person against whom the claim is filed will be considered registered/licensed if that person was registered/licensed during all or part of the work period or if any invoices or payroll records involve material deliveries or equipment rentals while that person was registered/licensed.
- c. The registration/licensing requirement for claimants does not apply to persons who are exempt from the Board's registration/licensing requirements.
- d. The Board will only accept claims within one (1) year from the date the registrant/licensee incurred the indebtedness, meaning the date of delivery of the materials or the date the purchaser took possession of the materials. If such date is unknown, the date of the invoice/order applies.
- e. Claims based on materials must be accompanied by a summary of indebtedness showing the job site address, the date of each invoice, each invoice number, and each invoice amount.
- f. Assessed damages will only consider those items delivered or rented during the period of registration/licensure.

H. Soil, Asphalt, or Concrete Testing:

1. A claim may be filed by a registered/licensed contractor or subcontractor for unpaid labor or materials supplied in conjunction with a structure for soil, asphalt, or concrete testing.
2. Requirements:
  - a. This type of claim will not be accepted by the Board unless the contractor/claimant was registered/licensed and subject to the Board's authority at the time the bid was made or the contract was entered into, and continuously throughout the work period.

- b. The contractor against whom the claim is filed will be considered registered/licensed if that person was registered/licensed during all or part of the work period or if any invoices or payroll records involve material deliveries or equipment rentals while that person was registered/licensed.
- c. The registration/licensing requirement for claimants does not apply to persons who are exempt from the Board's registration/licensing requirements.
- d. Assessed damages will only consider those items delivered or rented during the contractor's period of registration/licensure.

#### **1.5.4 Board Procedures for Processing Claims**

##### **A. Processing General Claims**

1. The Board will first determine whether the submitted claim is complete and meets the Board's requirements for acceptability based on timeliness, jurisdiction and scope.
2. The Board staff will provide a copy of the claim filed to the person(s) against whom the claim is filed, and to legal counsel if an entry of appearance or representation has been provided to the Board.
3. The Board will investigate the claim. The Board reserves the right to inspect the property subject to the claim; if the claimant refuses access to the property, the Board may dismiss the claim.
4. The Board staff may request information and documentation from the respondent related to the claim and the respondent's registration/license, including but not limited to contracts, subcontractors, education courses, insurance, or other issues.
5. If a claim brought by a property owner is received while the Board is processing a claim involving the same property, the claims will be processed together or joined if possible.
6. If, during the investigative process, the Board staff determines that a respondent has likely breached a contract or performed negligent work, the Board staff may recommend a resolution consistent with the terms of the contract or with generally accepted building and industry standards.
7. The Board staff may propose a settlement to resolve any claim during the investigative process. If the parties involved sign a settlement agreement, the agreement shall be binding unless breached by either party. The Board may close the claim whenever:

- a. The claimant notifies the Board that the terms of the settlement agreement have been fulfilled; or
  - b. The claimant fails to notify the Board in writing, and within thirty (30) days of the agreed upon completion date shown in the settlement, that the terms have not been fulfilled.
8. The Board reserves the right to hold funds in escrow for either party until it is determined, to the Board's satisfaction, that the claim has been resolved. The Board may close the claim if either party refuses to allow the Board to hold disputed funds in escrow.
9. The claimant may proceed to the administrative hearing process and may seek monetary damages whenever:
- a. The claim has not been resolved, disposed and/or dismissed during the investigative process;
  - b. The claimant or the respondent does not agree with the settlement proposed by the Board staff; or
  - c. The respondent does not fulfill the terms of the settlement agreement through no fault of the claimant, and the claimant notifies the Board in writing within thirty (30) days of the agreed upon completion date.

**B. Processing Claims based on Contracts with Arbitration Agreements**

1. If a claim is received that is based upon a valid contract that contains an agreement by the parties to arbitrate disputes arising out of the contract, the specific terms of the arbitration agreement supersede the Board's regulations. The Board may take the following action:
  - a. Inform the claimant that the Board will accept the claim for processing only if both parties agree to waive arbitration. The necessary waiver must be written, signed, and received by the Board in person or by mail within thirty (30) days (or within the time period specified in the contract for the commencement of arbitration, whichever is later) of the date the Board notifies the parties that a waiver is required.
  - b. If the Board does not receive a waiver of arbitration from the claimant, the claim will be closed and will not be reopened.
  - c. If the respondent does not waive arbitration as set forth in the contract, the Board will allow the respondent the remaining time to commence arbitration. If the respondent fails to submit evidence to the Board that arbitration has been commenced within the thirty

(30) days or the time period specified by the contract (whichever is later), the Board will resume processing the claim.

- d. If arbitration is commenced, the Board will discontinue processing the claim until the arbitration is completed. Once the arbitrator renders a decision, that decision shall be binding upon the participants and neither party may file a claim for damages with the Board. The parties may petition the Board, within ninety (90) days of the arbitrator's decision, to take action on the registration/license of the respondent.

### C. Processing Mechanics' Lien Claims

1. Upon acceptance of a mechanics' lien claim, the Board shall send a copy of the claim to the contractor/respondent and shall initiate an investigation to determine the validity of the claim.
2. An investigation by the Board will include:
  - a. A determination of whether the claimant paid the contractor/respondent for work performed, materials supplied or equipment rented and whether the contractor/respondent failed to pay the subcontractor, or material or equipment supplier, thereby causing a lien to be filed against the claimant's property; and
  - b. A determination of whether the lienor filed the lien with the recording officer of the city or town; and
  - c. A determination that the party was properly notified and noticed pursuant to the mechanics' lien law.
3. If the contractor/respondent contends that payment has been made to the lienor, either directly or by the return of goods constituting a credit to the account of the registrant/licensee, the contractor/respondent may subpoena the lienor and pertinent records to any hearing held by the Board.
4. If at any time prior to the issuance of a final order the Board determines that the lien is unenforceable or invalid, the Board may proceed with the determination of the mechanics' lien claim.
5. Claims may include attorney fees, court costs, interest and/or service charges if these items are included as part of the mechanics' lien or incurred as costs in discharging the lien. Awards to owners for costs in discharging the lien shall not exceed the amount of the lien. The Board may reduce the amount awarded to the claimant by:
  - a. Any amount the claimant owes the contractor/respondent; or

- b. Any amount included for tools or equipment not fabricated into the structure.
- 6. If a claimant files two (2) or more claims against a contractor/respondent relating to work performed under the same contract(s) and if the claimant has not paid the contractor/respondent the full amount of the contract, the amount awarded on each claim will be reduced on a prorated basis. No proposed or final order shall be issued on any claim until all claims involving the two parties filed within the same ninety (90) day period are ready for such order.
- 7. If the Board learns that an action to enforce a lien that is the subject of a claim has been filed, the Board may send notice to the claimant that:
  - a. The claimant has the right to request a stay of the proceedings until the Board processing of the claim is complete;
  - b. The Board will hold the claim open for sixty (60) days from the date of the notice to allow the claimant to obtain a stay;
  - c. The Board will close the claim if evidence is not received within sixty (60) days from the date of the notice that a stay has been obtained; and
  - d. Upon timely receipt of evidence that a stay has been obtained, the Board will resume processing the claim.
- 8. If a mechanics' lien claim involves the same facts and issues as any other open claim, the Board shall process the claims together, if feasible.
- 9. If the Board awards monetary damages to the owner to discharge a lien, the Board may reduce the amount awarded related claims by the amount of the award in the mechanics' lien claim.

#### **1.5.5 The Board's Right to Refuse and/or Dismiss Claims**

- A. The Board may, in its sole discretion, refuse to accept or at any time refuse to continue processing a claim if:
  - 1. The claim involves a contract that is administered, reviewed, and inspected by a local, state, or federal agency when disbursement or administration of the contract sum is contingent upon the approval of that agency;
  - 2. The claimant fails to respond to the Board's written requests for information or documentation within a time period specified by the Board;

3. If the claimant does not allow access to the property for investigation purposes;
4. The Board determines that the nature or complexity of the issues presented are better suited for court or an alternate forum;
5. The same issues involved in the claim have been submitted by either party to a court, arbitration, or other forum authorized by law to affect a resolution prior to the administrative hearing;
6. The facts and issues of the claim are substantially the same as those in a claim previously filed by the same claimant, unless the claim concerns a repair previously ordered by the Board;
7. The Board determines that the person against whom the claim is filed is capable of complying with the recommendations made by the Board relative to the claim, but the claimant does not permit the respondent to comply with those recommendations; or
8. The Board determines that the value of the damages due to the claimant is less than that owed to the respondent under the terms of the contract.

#### **1.5.6 Administrative Hearings**

- A. Administrative hearings are held before the Board's hearing officer or a hearing officer appointed by the Executive Director. Such hearings are recorded and are conducted in accordance with R.I. Gen. Laws § 42-35-1 *et seq.*, and as delineated herein.
- B. Notice of Hearing
  1. Unless otherwise agreed to by the Board and the parties, the Board shall schedule administrative hearings before a hearing officer no sooner than twenty (20) calendar days from the date the parties are notified of the hearing.
  2. The Board will issue a notice of hearing inclusive of the time, date and location of the scheduled hearing, and identify what claims, disciplinary actions, and/or fines are lodged against the respondent.
  3. Notice of hearing will be sent to the address of record, agent of service, attorney of record and/or the last known address of the respondent. An address trace may be conducted to locate a respondent.
- C. Hearing Postponements
  1. A party's written request for a postponement of a hearing may be granted by the Board's Executive Director if:

- a. The request is promptly made after the party receives the notice of hearing and is within the original twenty (20) day hearing notice period; and
- b. The party has just cause for not attending the hearing at the time and date set. For the purposes of this section, just cause exists when:
  - (1) The circumstances requiring the postponement are beyond the reasonable control of the requesting party; and
  - (2) Failure to grant the postponement would result in undue hardship to the requesting party.
- c. The party requesting the postponement is able to supply verifiable proof of the just cause/ need for postponement.

D. Failure to Appear at Hearing

- 1. Claimant Fails to Appear: If the claimant, after being properly served notice of the hearing in accordance with these rules, fails to appear at a hearing, the Board will dismiss the claim unless it finds that failure to appear was caused by circumstances outside the control of the claimant.
- 2. Respondent/Registrant/Licensee Fails to Appear: If the respondent, after being properly served notice of a hearing in accordance with these rules, fails to appear at a hearing, the Board will issue a default proposed order based upon the claimant's representation of a prima facie case, unless it finds that failure to appear was caused by circumstances outside the control of the respondent. At the discretion of the Executive Director, a new administrative hearing may be scheduled, if cause is beyond the control of the respondent, or the matter may be appealed to the Board within twenty (20) days of issuance date of the proposed default order.

E. Board Representation by Officer, Staff or Employee

- 1. Board staff, investigators, and employees may present information or argument on behalf of the Board in compliance and claim hearings.
- 2. When Board officers or employees represent the Board in a hearing, the presiding hearing officer shall advise such representative of the procedure in which objections may be made and matters preserved for appeal.
- 3. Where a claim or compliance hearing may involve legal argument, the presiding hearing officer shall provide reasonable opportunity for Board officers or employees to consult legal counsel and permit legal counsel to file written legal argument within a reasonable time after conclusion of the hearing.

## F. Claim Hearing Procedures

1. Both parties present at the hearing will be asked to sign a waiver of jury trial form, thereby waiving their right to bring the dispute before a jury. If both parties sign the waiver form, the hearing officer has the ability to award monetary damages if appropriate. If only the claimant is present and signs a jury trial waiver form, but the respondent fails to appear at the hearing, monetary damages may be awarded if appropriate. If either party refuses to sign the jury waiver form, thereby preserving that party's right to a jury trial, the hearing officer may not award monetary damages, but may order a deposit returned if a deposit is paid and no work was performed.
2. At the administrative hearing:
  - a. The claimant:
    - (1) Shall submit substantiating evidence to support the allegations of the claim;
    - (2) Shall seek remedies for only those items shown on the statement of claim form;
    - (3) May be required to submit multiple estimates for the cost of correcting the issues/items shown on the statement of claim form. Estimates must be obtained from a registered/licensed contractor if the work to be conducted requires a license or registration; and
    - (4) Must prove that damages have occurred, that those damages have been caused by the registrant/licensee or a person required to be registered/licensed, and the monetary value of those damages. If the claimant fails to carry this burden of proof, the Board may dismiss the claim;
  - b. The respondent must provide evidence refuting the allegations in the claim form;
  - c. The claimant and/or respondent may challenge evidence submitted, offer evidence to disprove or refute the Board's investigative report, and/or retain experts to testify on their behalf; and
  - d. The hearing officer and/or Board may address and impose fines for additional violations or matters based on the evidence presented. If parties refute such additional violations, or wish to provide additional evidence to refute such violations, a continuance may be requested.

3. Using evidence received at the hearing, the hearing officer will issue a proposed order based upon findings of fact and conclusions of law. The proposed order may:
  - a. order the respondent to pay monetary damages to the claimant;
  - b. order the claimant to pay the respondent;
  - c. require the contractor to repair certain work;
  - d. order a combination of monetary damages and repair work;
  - e. dismiss the claim; and/or
  - f. impose fines for statutory violations and/or violations of these Rules and Regulations.
4. The hearing officer may consider any amounts due and unpaid to the respondent from the claimant under the terms of the contract and may reduce any proposed award by that amount.
5. The hearing officer or the Board may issue an order for damages in an amount greater than the amount claimed due at the hearing, and may impose fines up to the value of the contract or the actual damages caused by the contractor. A monetary award may be determined by the contract balance or by repair work costs at the hearing officer's discretion. A monetary amount, where appropriate, may be awarded for attorney fees, interest, or other administrative costs.
6. If no appeal or exceptions to the proposed order have been received by the Board within twenty (20) days of the mailing of the proposed order, a final order will issue.

### **1.5.7 Exceptions (Appeals) to Board Orders**

- A. **Right to File Written Exceptions to a Proposed Order:** A claimant or respondent may file written exceptions to a proposed order if he/she believes that the hearing officer has made a procedural error, that the proposed order is not supported by evidence received at the administrative hearing, or for other legal or procedural reasons.
- B. **Time Frame and Requirements for Filing Appeal Exceptions:** To be considered, exceptions to a proposed order must be submitted on the form prescribed by the Board, and must be received by the Board within twenty (20) days of the date of mailing of the proposed order, accompanied by a non-refundable twenty-dollar (\$20.00) processing fee.

1. If exceptions are not timely received, or payment is not provided, a Board meeting hearing will not be scheduled and the Board may proceed to issue a final order.
  2. If exceptions are timely received, the matter will be scheduled for consideration by a quorum of the members of the full Board at the next regular meeting for which agenda space is available.
- C. Notice of Hearing: Notice of the time, date, and place of the Board meeting hearing will be mailed to the parties along with copies of the exceptions that were filed. Response to and any written argument for or against the proposed order will be accepted up to the Board meeting hearing date.
- D. Attorney Entry of Appearance: The claimant, respondent, and/or their attorney(s) may appear at the Board meeting hearing to argue for or against the proposed order. Attorney(s) must file entries of appearance with the Board prior to appearing before the Board. Oral argument will be permitted only if the exceptions were timely received.
- E. Board Consideration of Exceptions: At the Board meeting hearing, the Board will consider evidence received at the underlying hearing, the written exceptions, and written or oral argument for or against the proposed order. The Board will not consider new or additional evidence. The Board has the right to limit the time allowed to each party for oral argument during the meeting hearing.
- F. Decision of the Board: The members of the Board may affirm the proposed order and findings of fact, modify either or both, remand the case for a new hearing or a hearing/clarification on specific matter, or dismiss the claim. A final order will be issued after the Board meeting hearing unless the matter is continued, remanded or dismissed. The Board may also revoke/suspend or take action on the registration/license of the respondent.
- G. Final Order of the Board: After the Board has rendered its decision, a final order will be issued and be mailed to the parties' last known addresses, and the respondent (and/or agent of service) will be served in-hand with a copy of the final order. Any monetary award and/or civil penalty/fines assessed against the respondent in a final order are due and payable on the issuance date of the final order, or as otherwise agreed to by the parties and the Board. The Board may initiate its own collection proceedings and actions pursuant to applicable law. Interest may be assessed on the amount due in the final order in accordance with applicable law.
- H. Administrative Appeal: Either party may appeal a final order to the Superior Court pursuant to R.I. Gen. Laws § 42-35-1 *et seq.*

### **1.5.8 Administrative Appeals**

- A. In accordance with R.I. Gen. Laws § 42-35-1 *et seq.*:

1. final orders issued by the Board may be appealed by either party. The appeal must be filed with the Superior Court within thirty (30) days after notice of the final order is mailed by the Board; and
2. The appealing party must request from the Board and pay for the underlying agency record within thirty (30) days after the service of the complaint on the Board. It is also the responsibility of the appealing party to pay for and obtain any transcripts of hearings that may need to be included in the record.

### **1.5.9 Court Judgements/Arbitration Awards**

- A. If a matter is adjudicated in an alternate forum in lieu of the Board's claim process, a related court judgment or arbitration award may provide the basis for the Board to take regulatory action against registrant/licensee, which could result in the imposition of fines and penalties in accordance with these rules and regulations.
- B. A judgment/award must be provided to the Board within ninety (90) days of entry in its original forum. Upon receipt of a timely filed court judgment/arbitration award, the Board may issue a notice of hearing and schedule an administrative hearing to take action against the registrant/licensee, utilizing the judgment/award as the basis for such action.

### **1.5.10 Bankruptcy/Receivership**

- A. If a respondent/registrator/licensee files for bankruptcy or receivership, the Board must be notified in writing by the registrant/licensee and kept informed of the status of the bankruptcy/receivership case until dismissed, discharged, or resolved in court. Notice of bankruptcy/receivership may stay Board proceedings until the bankruptcy/receivership case has been discharged, closed, or otherwise resolved or dismissed.
- B. Civil fines imposed by the Board are non-dischargeable in bankruptcy. The Board, at its discretion, may alter or reduce the amount of fines in efforts to resolve claims.

### **1.5.11 Criminal Prosecution**

Once all appeal rights have been extinguished, if a respondent fails to comply with a final order, the Board may refer the case to the Office of the Attorney General to be criminally prosecuted.

## **1.6 Violations and Penalties**

### **1.6.1 General**

- A. The Board has the authority to assess and impose civil penalties for violations of R.I. Gen. Laws Chapters 5-65, 5-65.3, 5-73, 5-65.1, 5-65.2 and the corresponding Chapters of this Title. The Board has discretion to impose fines and civil penalties for violations of the General Laws and Sections of the Rules and Regulations as follows:

First Offense: up to \$5,000

Second and Subsequent Offenses: up to \$10,000

- B. The Board also has discretion to adjust fines to resolve violations and claims, and pursuant to R.I. Gen. Laws §§ 5-65-10(k)(1) and 5-65.3-12(5), may place a lien on property held by a registrant/licensee.
- C. The Board may also immediately suspend or revoke any registration or license for just cause when the registrant/licensee is acting to the detriment of the health, welfare and safety of the general public. Under this provision revocation and suspension may be extended beyond the initial thirty (30) days after the opportunity for an administrative hearing has occurred.

### **1.6.2 Considerations for Assessing Fines**

- A. In determining the amount of any penalty or fine to be assessed, the Board may consider factors including, but not limited to, the following:
1. The circumstances leading to or causing the violation;
  2. The severity of the violation and the risk of harm to the claimant and/or public;
  3. The Board's record of the respondent, including prior claims and violations;
  4. Whether the amount imposed will be a substantial deterrent to the violator;
  5. The economic benefits gained by the violator as a result of non-compliance;
  6. The interest of the public;
  7. Willfulness of the violation; and
  8. The extent to which the respondent has sought to compensate the victim(s) of the violation(s) and/or remedy the issue.

### **1.6.3 Schedule of Violations**

- A. The Board may impose civil penalties and fines for statutory and regulatory violations, including but not limited to the following:
1. Non-Registered Contractor
    - a. A person may not conduct contracting activities while unregistered, or work with a revoked, suspended, or invalid registration, in violation of R.I. Gen. Laws § 5-65-3.
  2. Non-Licensed Underground Utility Contractor
    - a. A person may not conduct activities of an underground utility contractor while unlicensed, or work with a revoked, suspended, or invalid license, in violation R.I. Gen. Laws § 5-65.3-3.
  3. Non-Licensed Commercial Roofing Contractor
    - a. A person may not conduct activities of a commercial roofing contractor while unlicensed, or work with a revoked, suspended or invalid license, in violation of R.I. Gen. Laws § 5-73-3.
  4. Non-Licensed Home Inspector or Non-Licensed Associate Home Inspector
    - a. A person may not conduct activities of a home inspector or associate home inspector while not licensed, or perform home inspections with a revoked, suspended or invalid license, in violation of R.I. Gen. Laws §§ 5-65.1-7(a) and 5-65.1-12.
  5. Hiring Non-Registered/Non-Licensed Subcontractor
    - a. A person may not hire a non-registered or non-licensed subcontractor in violation R.I. Gen. Laws §§ 5-65-3(j) and 5-73-3(d)(3).
  6. Failure to Provide List of Registration or License Numbers
    - a. Failure to provide list of registration or license numbers of contractors or subcontractors in violation of R.I. Gen. Laws §§ 5-65-3(h), 5-73-3(d)(3), 5-65-10(a)(1), and/or 5-65.3-12(5) may be subject to a fine of twenty-five dollars (\$25.00) per offense.
  7. Advertising and Mandatory Disclosure Violations
    - a. A registrant/licensee is required to include his or her registration/license number on any form of advertising, including but not limited to electronic, print, business cards, vehicles, radio, television, contracts, invoices, and proposals, in accordance with

R.I. Gen. Laws §§ 5-65-3(l), 5-65-22, 5-65.1-6(b), 5-65.3-12(5), and 5-73-3(d)(3).

8. Failure to List Business Names/ Fictitious Names
  - a. A person must provide to the Board any and all business names, aliases or fictitious names under which business as registrant/licensee is conducted. A registration/license is necessary for each named business entity regardless of the fact that each entity may be owned by the same individual.
9. Lapse or Revocation of Corporate Status
  - a. The Board may issue a violation and impose fines for a lapse in or revocation of a corporation, limited liability company, limited partnership, joint venture, or trust status with the Rhode Island Secretary of State's Office.
10. Fraudulent Use of Registration/License
  - a. Any person, whether registered/licensed with the Board or not, may not use another person's registration/license or identification card/certificate, alter a registration/license card/certificate, or allow another person to use his/her registration/license fraudulently in any way, in violation of R.I. Gen. Laws §§ 5-65-10(h), 5-65.1-11(a)(6), 5-65.3-12(3), and/or 5-73-3(d)(3).
  - b. No person shall register, become licensed or seek a registration or license with the Board for the purpose of deceiving or circumventing the registration/license process by enabling an individual whose registration/license has been suspended or revoked to conduct business in violation of R.I. Gen. Laws §§ 5-65-10(l), 5-65-10(h), 5-65.1-11(a)(17), 5-65.3-12(3), and/or 5-73-3(d)(3). In addition to the imposition of fines, this infraction will result in the immediate revocation of the registration/license deemed to be fraudulent.
11. Falsified Documents
  - a. No person shall falsify any documents.
12. Failure to Maintain Required Insurance and/or Bond
  - a. A registrant/licensee must maintain the insurance required by R.I. Gen. Laws §§ 5-65-7, 5-65-7.1, 5-65.1-10, 5-65.3-9, and/or 5-73-3(c)(7), and/or maintain the bond and/or bonding capacity as required by R.I. Gen. Laws §§ 5-65.3-10 and/or 5-73-3(c)(6), continuously and until the registration/ license is terminated,

revoked, or expired. Fines may be imposed if the Board receives notice from an insurance or bonding company that the insurance policy or bonding capacity of a registrant/licensee has been cancelled, lapsed, or not renewed.

- b. If a registrant/licensee fails to maintain the required insurance and/or bonding, and during that period causes damage to another entity or to the property of another person for which that entity could have been compensated by insurance and/ or bond, the Board may assess a civil penalty.
- c. Registrants/Licensees with lapsed or no insurance coverage or bonding capacity will be considered non-registered/non-licensed and may be subject to penalties for operating without a registration/license. The registrant/licensee may not be fined if:
  - (1) sufficient evidence is provided to the Board that timely payment to the insurance/bonding carrier was received;
  - (2) that a new policy was obtained;
  - (3) that no lapse occurred; or
  - (4) that the registrant/licensee intends to surrender the registration/license permanently.
- d. If a surrendered registration/license is reinstated, any insurance/bonding penalties that were previously issued will remain outstanding. If no such proof of coverage or change of policy is received by the Board within thirty (30) days of the notice from the insurance/bonding carrier to the Board of the policy's cancellation, lapse, or non-renewal, fines may be imposed.

### 13. Failure to Complete Education Courses

- a. Failure to complete the required education courses while performing work in a respective discipline may result in suspension of registration/license and imposition of a fine.

### 14. Failure to Have Written Contract for Contracts Over One Thousand Dollars (\$1,000.00)

- a. A residential contractor performing work in excess of one thousand dollars (\$1,000.00), including labor and materials, must be accompanied by a contract in writing in accordance with R.I. Gen. Laws § 5-65-3(o). Failure to have a written contract for amounts more than one thousand dollars (\$1,000.00) may result in the imposition of a fines.

15. Failure to Obtain Permits

- a. Registrants/licensees must see that permits required by the state building code or the local municipality are secured prior to commencing the work involved, pursuant to R.I. Gen. Laws §§ 5-65.3-12(a)(5), 5-65-10(a)(1), and 5-65-3(m). Failure to secure permits as required may result in the imposition of a fine.

16. Violations based on Claims

- a. When adjudicating a claim pursuant to the Board's claim process, in addition to monetary awards and other remedies, the Board may also impose fines in the amount up to the value of the contract or the value of the actual damages, pursuant to R.I. Gen. Laws § 5-65-10(c)(2). Such fines may be reduced at the Board's discretion upon completion of work or other fulfillment of the Board's order.

**1.6.4 Board Procedure for Issuing/Processing Violations**

- A. 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.
- B. Basis for Issuing Violations/Fines: The Board may issue violations and impose fines against those registered/licensed with the Board or those required to be registered/licensed with the Board, based on, but not limited to, the following:
  1. Court judgment;
  2. Claims;
  3. Disciplinary action;
  4. Lack of insurance policy/coverage;
  5. Lack of workers' compensation coverage;
  6. Lack of minimum bond or proof of bonding capacity;
  7. Improper advertising;
  8. Hiring non-registered/non-licensed contractor(s) or subcontractor(s);
  9. No registration/license number on contract;
  10. No registration/license number in advertisement;

11. No mechanics' lien release form/notice provided in contract;
  12. No right of rescission clause;
  13. Action filed by entity such as building official, municipality, other agency, etc.;
  14. Failure to list employee(s);
  15. Violation of State Building Code;
  16. Violation of rule, regulation or order of the Board;
  17. Working under an invalid, revoked, or suspended registration/license;
  18. Registrant/licensee engaged in conduct dishonest or fraudulent conduct;
  19. Working under another person's registration/license number;
  20. Lien filed whereby registrant/licensee wrongfully failed to perform a contractual duty to pay person claiming lien;
  21. Registrant/licensee made false statements on application or to investigative staff;
  22. Engaged in any act, conduct, or practice which violates this chapter;
  23. Failure to provide list of sub-contractors or employees;
  24. Failure to comply with the disclosure requirements;
  25. Failure to comply with the educational requirements.
- C. Notice of Intent to Assess Civil Penalty: If the Board proposes to assess a civil penalty for a ticket/violation, it shall issue to the respondent a "Notice of Intent to Assess a Civil Penalty and Opportunity for Hearing – Proposed Order."
- D. Time Frame for Requesting Hearing: The respondent must request a hearing in writing to the Board within twenty (20) days of the date of mailing or issuance of Notice of Intent to Assess Civil Penalty.
1. If the Board does not receive a written request for an administrative hearing within twenty (20) days of the date of mailing the Notice of Intent to Assess a Civil Penalty and Opportunity for Hearing – Proposed Order, the Board will issue a final order. Final orders may be appealed to the Board.

2. If the Board timely receives a written request for a hearing, the Board will schedule an administrative hearing to review the matter in accordance with the procedure outlined below.
- E. Notice of Hearing: A notice of administrative hearing shall contain the date, time, and location of the hearing, the violations to be heard, and the amount or potential amount of the civil penalties/violations proposed by the Board. At the hearing or on appeal, the hearing officer and/or Board may address and impose fines for additional violations or matters based on the evidence presented. If the parties dispute such additional violations, a continuance may be requested.
- F. Administrative Hearing: Administrative hearings may be held before a hearing officer of the Board or one assigned by the Executive Director.
1. If an attorney is representing a party, he/she must file an entry of appearance with the Board prior to hearing.
  2. Supporting evidence of a violation may be entered into the record by the hearing officer, or by another representative of the Board.
  3. If respondent fails to appear at the hearing, the Board must nevertheless present a prima facie case of the violation.
  4. The respondent may present evidence to refute the allegations.
- G. Proposed Order: Based on evidence received at the hearing, the hearing officer will prepare findings of fact and conclusions of law. After the hearing, the hearing officer will issue a proposed order assessing civil penalties/fines, requiring other disciplinary measures, or dismissing the matter. Proposed orders are mailed to the respondent's last known address on file with the Board.
- H. Exceptions to Proposed Order/ Time Frame to File: If the respondent does not believe the proposed order is supported by the evidence received at the hearing, the respondent may file written exceptions with the Board on the proper form and accompanied by a twenty-dollar (\$20.00) fee within twenty (20) days of the date of mailing of the proposed order.
1. If written exceptions are not timely received, the Board may issue a final order as proposed. Final orders may be appealed to Superior Court accordance with R.I. Gen. Laws § 42-35-1 *et seq.*
  2. If exceptions are timely received, the matter will be set for consideration by the members of the full Board at the next regularly scheduled meeting for which agenda space is available.
  3. Attorney representing the respondent must submit an entry of appearance with the Board prior to the hearing before the Board.

4. Written argument in opposition to the proposed order will be accepted before the Board meeting date if the original exceptions were timely filed and proper fee was paid.
- I. Board Consideration of Exceptions: At the Board meeting, members of the full Board will consider evidence received at the underlying hearing, timely filed exceptions, and written and/or oral argument relative to the proposed order. Time allowed for oral argument may be limited by the Board. The Board will not consider new or additional evidence. The Board may allow the Board staff investigator to report on his/her investigative findings. After consideration of evidence and argument, the Board may affirm the proposed order and findings of fact, modify either or both, dismiss the case, or remand the case for a new hearing or hearing on a particular item. The Board will issue a final order after the Board meeting unless the case is remanded for a new hearing. If a registrant/licensee has outstanding violations with the Board, the Board may take action on the registration/license, including the suspension, invalidation, or revocation.
- J. Final Order of the Board: After the Board has rendered its decision and a final order is issued, the Board will mail the final order to the parties at last known addresses and will serve a copy of the final order in hand on the respondent and/or the respondent's agent of service. The civil penalty/fine assessed against the respondent in a final order is due and payable on the issuance date of the final order or as agreed to by the parties and the Board. The Board may initiate its own collection proceedings and actions as allowed by law. Interest may be assessed on the amount due in the final order according to state law.
- K. Action on Registration/License and Criminal Prosecution: The Board may revoke or suspend the license of any respondent that fails to pay a civil penalty/fine which has become due and payable. The Board may also refer the matter to the Rhode Island Office of the Attorney General for criminal prosecution if the respondent has failed to comply with a final order of the Board, pursuant to R.I. Gen. Laws § 5-65-19.
- L. Administrative Appeal: A party has the right to appeal the final order of the Board to the Superior Court in accordance with R.I. Gen. Laws § 42-35-1 *et seq.*

## **1.7 Education**

### **1.7.1 Scope**

The Board adopts by rule the following education standards and requirements for persons registered/licensed with the Board. The Board may have third-party vendors or providers assist in the management of educational programs. A listing of Board-approved courses is available on the Board's website at [www.crb.ri.gov](http://www.crb.ri.gov).

### **1.7.2 Specifications**

- A. As a condition of holding a valid registration/license issued by the Board, the registrant/licensee must comply with the educational requirements specified for that discipline.
- B. If the registrant/licensee holds another registration/license issued by the Board, educational credits obtained for the first registration/license may be used to satisfy the education requirements for a secondary registration/license held by the same person. The registrant/licensee will be required to provide proof of completion of the education credits from Board-approved courses.
- C. Documentation of all credit hours must be submitted to the Board at the time of application for or renewal of a registration/license, provided either directly from the Board approved third-party provider/vendor or by the registrant/licensee.
- D. One (1) credit hour of education is equal to fifty (50) minutes of instruction from a Board-approved provider.

### **1.7.3 Qualifying Education**

- A. Each registrant/licensee must obtain his/her pre- and/or continuing education credits through a Board-approved provider. Courses must pertain to the subject matter of the discipline for which the person holds the registration/license. Subject matter not acceptable for pre- or continuing education credit includes, but is not limited to:
  - 1. Mechanical office and business skills such as typing, speed reading or memory improvement;
  - 2. Physical well-being or personal development, such as motivation, stress management, time management, dress for success; and
  - 3. Meetings held in conjunction with the general business of the registrant/licensee.

### **1.7.4 Course Materials and Fees**

Each applicant/registant/licensee shall be responsible for paying for all course-related fees and acquiring any course materials used in any pre- or continuing education course. This requirement may include the acquisition of a current publication of codes and/or standards or rules that may be applicable to the applicant/registant/licensee's discipline.

### **1.7.5 Proof of Educational Course Completion/Compliance**

- A. The applicant/registant/licensee is responsible for demonstrating compliance with and completion of the pre- and continuing education requirements. Irrespective of any transcript that may be issued directly to the Board by a vendor, provider or instructor, an original certificate issued by the vendor,

provider or instructor to the registrant/licensee shall serve as conclusive evidence of course completion.

- B. The applicant/registant/licensee is required to provide a photocopy of the original course completion documents to the Board for both initial registration/licensure and renewal of registration/licensure purposes.
- C. The applicant/registant/licensee must retain the original documents for his/her current registration period and for three (3) years following the completion of the course(s), as proof of course completion. Course certificates shall include:
  - 1. the name, date, and identifying number of the course;
  - 2. the number of credit hours completed;
  - 3. the contact information of the provider and the instructor;
  - 4. any accreditation information; and
  - 5. the signature of the instructor.
- D. The registrant/licensee must ensure that their name and registration/license number are clearly printed on the course certificate.
- E. Providers, vendors and instructors must keep copies of all proof of completion documents issued to registrants/licenseses for three (3) years following the completion of the course(s).

### **1.7.6 Requirements**

- A. Contractors' Registration
  - 1. Pre-registration Education Requirement
    - a. As a condition of initial registration, each applicant for a contractors' registration must provide the Board with proof of completion of five (5) credit hours of education prior to obtaining a registration. The five (5) hours of pre-registration credits must be completed within twenty-four (24) months prior to applying for a registration, and must have been completed at an in-person course, not an online course. To fulfill the five (5) pre-registration credit hours, the applicant must complete in person:
      - (1) One (1) credit hour of Board-approved education covering Construction Codes and Standards;
      - (2) One (1) credit hour of Board-approved education covering Contracts;

- (3) One (1) credit hour of Board-approved education covering Workplace Safety;
- (4) One (1) credit hour of Board-approved education covering Business Principles and Practices; and
- (5) One (1) credit hour of Board-approved education related to the practice of construction or other topics related to the applicant's business, including but not limited to: land use, development, planning and zoning, resource conservation or estimating.

b. An applicant who has graduated from an accredited technical or vocational high school or college within the prior twenty-four (24) months may submit evidence to the Board that the courses completed are sufficient to satisfy the pre-registration education requirements. The applicant must submit an original transcript listing construction-related courses completed, details regarding the school's accreditation information, and contact information for the registrar. It is within the Board's discretion whether to allow the prior schooling to qualify as pre-registration education credit.

## 2. Continuing Education

a. After the initial pre-registration education requirements are completed, the registrant must complete five (5) credit hours of continuing education courses during the two (2)-year registration period prior to renewal to maintain his/her registration pursuant to R.I. Gen. Laws § 5-65-5(e). To fulfill the continuing education requirements, registrants must complete five (5) credit hours of Board-approved courses related to the practices of construction or other topics related to the nature of the registrant's business.

## 3. Exemptions

a. Contractors engaging in only commercial contracting work shall be exempted from the pre- and continuing education requirements outlined in this section.

## B. Commercial Roofing Contractors' License

### 1. Continuing Education Requirements

a. In accordance with R.I. Gen. Laws § 5-73-3(c)(5), as a condition of renewal of licensure, each applicant must provide the Board with proof of completion of ten (10) continuing education credits per year, equal to twenty (20) continuing education credits per two (2)-year licensing cycle.

- b. There are no pre-licensure education requirements to obtain a Commercial Roofing Contractors' license.

C. Home Inspectors' and Associate Home Inspectors' License

1. Continuing Education Requirements

- a. As a condition of renewal of licensure, each applicant for a Home Inspectors' License must provide the Board with proof of completion of ten (10) credit hours of continuing education courses during the two-year licensing cycle. At least one (1) credit hour within each renewal cycle shall be dedicated to professional ethics, and two (2) credit hours within each renewal cycle shall be dedicated to standards of practice.
- b. As a condition of licensure as an Associate Home Inspector, the applicant/licensee is required to complete the above-specified continuing education requirements within the first renewal cycle.
- c. There are no pre-licensure education credit requirements to obtain a license as a Home Inspector or Associate Home Inspector.

D. Underground Utility Contractors' License:

1. Education Requirements

- a. In accordance with R.I. Gen. Laws § 5-65.3-1 *et seq.*, there are no pre- or continuing education credit requirements to acquire or maintain an Underground Utility Contractors' license.

E. Well and Pump Installers/Water Filtration Contractors:

1. Continuing Education Requirements

- a. In accordance with R.I. Gen. Laws § 5-65.2-3(c)(4), as a condition of renewal of licensure to maintain a Well/Pump Installer/Water Filtration Contractors' license, each applicant must provide the Board with proof of completion of ten (10) continuing education credits per two (2)-year licensing cycle.
- b. There are no pre-licensure education credit requirements to obtain a Well/Pump Installer/Water Filtration Contractors' license.

**1.7.7 Exceptions to Education Requirements**

- A. The Board or its Executive Director may defer or waive some or all of the pre- or continuing education requirements in the event of a state of emergency declared by the Governor or for good cause shown by the applicant/registrant/licensee.

- B. Upon request and upon payment of a one-hundred dollar (\$100.00) fee to the Board, a registrant/licensee may be granted one (1) time, within a two (2)-year renewal cycle, a six (6) month deferral to complete his/her continuing education requirements.

#### **1.7.8 Alternative Continuing Education Credits**

Course Instructors: Board-approved pre- and continuing education course instructors may use their course instruction to satisfy the continuing education requirement. Instructors must provide the Board with evidence of what Board-approved courses he/she taught, when the course(s) were taught, and how many credit hours were taught. Instructors will receive credit for teaching a particular course only once per renewal cycle.

#### **1.7.9 Violations for Failing to Complete Education Requirements**

- A. Pursuant to its statutory authority, the Board may revoke, suspend, or refuse to issue, reinstate, or reissue a registration/license if the applicant/registant/licensee has failed to complete or maintain the required pre- or continuing education credits required.
- B. Operating or offering to conduct work or provide services without having completed the required pre- or continuing education requirements may also result in the registrant/licensee being subject to a violation and fines.

#### **1.7.10 Educational Course Providers / Vendors**

- A. Education Subcommittee: The Board may form an education subcommittee which will review, assess, approve and/or deny applications for educational course providers and instructors according to the general standards set forth in these rules and regulations and within the Board's and the subcommittee's discretion. The subcommittee shall consist of at least three (3) Board members and will meet prior to the regularly scheduled Board meeting or as necessary. The decision of the subcommittee will be presented to the full Board at regularly scheduled Board meetings for final approval/denial of a provider, instructor, or related education issues. A current list of approved providers and courses will be maintained on the Contractors' Registration and Licensing Board's website: [www.crb.ri.gov](http://www.crb.ri.gov).
- B. Organizational Provider Application: To become a Board-approved course provider, the prospective provider must first submit an application to the Board, which may be reviewed by the education subcommittee and approved or denied by the Board. The application must include:
  1. Name of training provider;
  2. Business identifying number (FEIN#);

3. Number of days / years in business;
4. Physical address;
5. Phone number;
6. E-mail address;
7. Website address;
8. Type of instruction (on-line, instructor led or both);
9. Reference letter including referring organization's name and contact information;
10. Business resume (basic description of business, credentials qualifying the company or organization as a trainer);
11. Name of business principals;
12. Insurance coverage and policy number (must have at least one million dollars (\$1,000,000) in liability coverage); and
13. Signed affidavit that:
  - a. All instructors are qualified to teach the courses to be offered;
  - b. Any facility where courses will be taught will be compliant with the American with Disabilities Act, 42 U.S.C. § 12101 *et seq.*;
  - c. Any facility where courses will be taught will be adequately lighted, heated/cooled, void of distractions as much as possible, be equipped with the teaching/learning equipment necessary to enhance learning (such as media projectors, TV/VCR, marker board and/or other safety equipment needed for instruction), have sufficient seating for attendees, and have easily accessible restrooms available for men and women;
  - d. Each credit hour will be equivalent to fifty (50) minutes of instruction time;
  - e. Each instructor will be properly registered/licensed within his/her discipline or otherwise properly qualified;
  - f. The provider and/or instructor will provide each applicant/registrant/licensee with a certificate upon completion of each course. Each certificate will include the name, identifying number and date of the course, number of credit hours completed, contact information of



- E. Failure to comply with the terms and conditions prescribed within the application and affidavit may result in the revocation of a provider's approved status.
- F. Instructor Evaluations: Instructors shall distribute course/instructor evaluation forms to each student at the completion of each course. Instructors shall follow up on legitimate complaints or suggestions for improvement. Such evaluation forms shall include a contact name and phone number for the Contractors' Registration and Licensing Board where complaints can be filed, shall be maintained by the provider, and shall be made available to the Board for a period of three (3) years following the course completion date.

#### **1.7.11 Violation for Operating as Non-Approved Provider**

Any individual or organization who acts as a provider or instructor without being properly approved by the Board, or who provides the Board with any falsified information or documentation, may be prevented from obtaining future approval as a provider or instructor.

#### **1.7.12 Penalties for Provider Noncompliance**

Any provider or instructor who violates these requirements or falsifies documentation may be subject to having their provider or instructor status revoked. A provider or instructor with a revoked status may petition the Board for reinstatement.

440-RICR-10-00-1

**TITLE 440 - CONTRACTORS' REGISTRATION & LICENSING BOARD**  
**CHAPTER 10 - GENERAL ADMINISTRATION, REGISTRATION, LICENSING,**  
**AND FILING CLAIMS**

**SUBCHAPTER 00 - N/A**

PART 1 - GENERAL RULES AND REGULATIONS FOR REGISTRATION,  
LICENSING AND FILING OF CLAIMS

Type of Filing: Adoption

**Agency Signature**

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Agency Head Signature

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Agency Signing Date

**Department of State**

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Regulation Effective Date

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Department of State Initials

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Department of State Date