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Testimony of Rep. Tiffany Roberts presenting

LD 1929, An Act to Protect Consumers by Licensing Home Building Contractors Before the Joint Standing Committee on Innovation, Development, Economic Advancement and Business

Good afternoon Senator Curry and esteemed colleagues on the Innovation, Development, Economic Advancement and Business Committee. My name is Tiffany Roberts, and I represent House District 149 and the communities of North Berwick and South Berwick. I am here before you today to present *LD 1929, An Act to Protect Consumers by Licensing Home Building Contractors*.

We license occupations for the safety and protection of Mainers. Therefore, the lack of regulation around home building contractors has created an unfair risk for consumers who invest in building or improving a home without assurance that it will pay off. As I stand here today, I could hire someone to build a \$400,000 home, and there are no criteria they need to meet to do so, yet the person I may hire as an interior designer for the finished home is required to be licensed.

For the safety of Mainers, this bill seeks to encourage safe and responsible business practices by establishing licensing requirements for home building contractors and a board to administer these licenses within the Department of Professional and Financial Regulation. Additionally, this bill establishes requirements for residential construction contracts and establishes certain penalties for those who violate the requirements of this bill.

This is not the first time this committee and the Legislature have contemplated the regulation of general contractors. There have been roughly seven bills over the last 15 years. This is not a rare practice either. Currently, 33 states have some type of contractor license or other regulation.

I realize that a contractor license might seem like just another hurdle in starting a business. But the truth is, there are plenty of good reasons why they exist. These reasons ensure that the contractor is capable and responsible on several levels. Consumer protection is one of them. Building isn't the only aspect of running a contracting company. Contractors also need to run fair and ethical businesses, and states must ensure they do so to protect consumers. Safety is another

reason. One of the most important reasons contractors have to carry licenses of some type is for safety's sake. A state regulatory board can ensure that a contractor knows how to handle many potentially dangerous situations on the job site. In addition, the state can gain a baseline on the contractor's industry know-how by testing the contractor's trade knowledge. Contractors that don't carry licenses may very well know what they're doing, but there isn't any proof of that at the state level.

We not only have some of the oldest housing stock in the country that needs to be maintained and improved in a responsible way, but we also have the oldest population in the country, many of whom reside in their homes as long as they are able. By not licensing contractors, we put an unnecessary burden on our most vulnerable consumers, who may not have the means to be able to go through the work required of vetting a builder in our current unregulated environment.

Another aspect to consider is the impactful housing bill passed last session, commonly referred to as LD 2003. This law aims to significantly increase the housing stock across the state. I ask you to consider the implications of this without the regulation of the people who will be creating this housing stock. Without proof of competence, we will likely have more consumers that are adversely affected. As we look to address the housing shortage in our state, we must ensure that these houses will last not only through but well beyond the 30-year mortgage they will carry. We simply cannot afford more lawsuits and jobs not finished or done properly and consumers out tens of hundreds of thousands of dollars.

I want to be clear that the bill before you is not intended to be the final product. It is a baseline for establishing competency in the field. I am fully committed to working with the stakeholders and the committee to take what we learn today and in the coming months and provide a comprehensive amendment that addresses all pertinent concerns.

Attached to your testimony is an initial amendment from the Attorney General's office that addresses technical fixes.

I understand the department has concerns regarding regulation, and I realize implementing a licensure program is not a small undertaking. I would ask this: if not now, when? How much worse does it need to get? How many more times will bills be introduced? How long until Maine is not an outlier in what is widely a standard occupation that is regulated?

Thank you for your consideration, and I would be happy to answer any questions.

OAG proposed changes to LR 1086
(removed text is ~~struck through~~; new text is in red)

§ 18601

“Dwelling unit” means a building or premises or any part thereof, including the appurtenances thereto, that is used as a home, residence or sleeping place by one or more natural persons who maintain a household.

“Person” means a natural person, corporation, limited liability company or any other business entity or association organized under the laws of this State, ~~or authorized to do business in this State.~~ or otherwise subject to jurisdiction under Title 14, section 704-A.

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

§ 18603(3)(H)

If there is or was any civil proceeding, judgment or award in which a claim was asserted, adjudicated or entered against the applicant, the jurisdiction or forum of the proceeding, judgment or award; the names of the parties and counsel to the proceeding, judgment or award; and the docket or case number associated with the proceeding, judgment or award.

§ 18603(5) – after D, insert:

Denial of an application shall constitute final agency action from which the applicant may appeal to the Superior Court pursuant to Maine Rule of Civil Procedure 80C. Review by the Superior Court shall be de novo.

§ 18604(1)(H)

A statement ~~that the~~ of the contractor’s ~~has~~ liability insurance coverage ~~and that~~ identifies the type of policy, the insurer and coverage amounts.

§ 18604(1)(L)

Remove in its entirety

§ 18605(3)

An intentional violation of this chapter is a civil violation for which a civil penalty of not more than \$10,000 must be imposed.

Any person ~~that~~ who in the course of offering to perform or performing residential construction makes a an intentional misrepresentation of that person's license status under this chapter commits a civil violation for which a civil penalty of not more than \$10,000 ~~may~~ must be imposed.

The civil penalties established by this chapter may be recovered in a civil action by the Attorney General.

§ 18605(4)

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

§ 18605(5):

The Attorney General may bring an action in the Superior Court to revoke or suspend any license issued under this chapter. Grounds for revocation or suspension include any of the following conduct, if the conduct occurred within the most recent year that the licensee was licensed:

- (i) Any ground upon which the Board could have denied a license to the licensee;
- (ii) A violation of this chapter by the licensee;
- (iii) A violation of Title 5, Section 207 by the licensee; or
- (iv) The licensee performed residential construction that has or is likely to cause bodily injury to any person or physical damage to any property.