

OFFICE OF POLICY AND LEGAL ANALYSIS

Date: March 8, 2021
To: Committee on Innovation, Development, Economic Advancement and Commerce
From: Rachel Olson, Legislative Analyst
LD 195 “Resolve, Directing the Department of Professional and Financial Regulation To Study a Voluntary Licensing System for General Contractors for Home Improvement and Construction” (Breen)

SUMMARY

This resolve directs the Department of Professional and Financial Regulation, in conjunction with the Department of Labor, to study the development of a voluntary licensing system for general contractors for home improvement and construction. The department is required to submit a report to the Joint Standing Committee on Innovation, Development, Economic Advancement and Business by December 1, 2021, and the committee is authorized to submit a bill based on the report to the Second Regular Session of the 130th Legislature.

TESTIMONY

Proponents: Senator Cathy Breen, sponsor; Tim Wheaton; David Page; Dane Rasmussen; Brooke Miller; Daniel Diffin, ACEC; City of Lewiston Planning and Code Enforcement; David Page;

- Worked on this issue last session, please do something to move this issue forward
- There have been many previous attempts to address this issue
- Contractors not required to be licensed, but most people they hire have to be licensed
- State adopted MUBEC in 2015, eliminating one barrier to licensing
- A lot of money is involved in home improvement and construction
- Remedies for consumers are too costly, and often ineffective, when things go wrong
- Would allow homeowners and developers to identify competent, qualified contractors who are proficient in MUBEC, it may also help to enforce insurance requirements, business contracting standards, streamline a grievance process, and require continuing education
- In the minority of states who license, in some way, this type of work

Opponents: None

Neither for nor against: Commissioner Anne Head, DPFR;

- This resolve would trigger a Sunrise Review
- Would need specific language to study, funding
- Certification is voluntary, licensure is mandatory – if moving forward with statutory set of guidelines it would no longer be voluntary

INFORMATION REQUESTS:

- **It was asked how many states license general contractors?**
According to the [NCSL occupational licensing statute database](#), 33 states currently license general contractors. General Contractor is defined as someone who plans, directs, coordinates activities concerned with construction and maintenance of structures, facilities, and systems. The requirements for licensure vary by state. [My office has](#)

[provided a side-by-side comparison of Connecticut and Rhode Island in order to provide a more detailed look at existing licensure framework.](#)

ADDITIONAL INFORMATION:

As was noted in testimony provided to the Committee, there is a long history of bills dealing with the licensing of contractors. A few bills of note are review below.

Pursuant to LD 1551 in the 121st Legislature, the Department was directed to conduct a sunrise review, which was submitted to the Committee on January 1, 2004. The report identified several barriers to a “meaningful sunrise review” including:

1. Absence of a statewide building code
2. Lack of statutory scope of practice
3. Lack of an identified funding source

The sunrise review report provided a variety of options, including: no change to the status quo, certification, registration, and licensure. The report ultimately determined that “the case has not been sufficiently made that the potential benefit of having licensed home contractors justifies the burden associated with home contractor licensing, in terms of both increased cost to eh consumer public and the increased cost to the regulated community.

[A copy of the full sunrise review report is included.](#)

During the 122nd Legislature, LD 1306 directed the Department to consult with the Attorney General’s office and industry representatives to develop a model registration process for home building and improvement contractors. In its report, the Department described a draft model registration process, which included an electronic registration and complaint process, proposed amendments to the Home Construction Contract statute, and a model contract and change order contract.

[A copy of the report back is included.](#)

During the 123rd Legislature, LD 1038 directed the Department to study the issue of residential contractor licensing and report back to the Legislature by January 4, 2010. In its report, the Department noted that the 123rd Legislature had passed legislation “harmonizing” the Maine Model Building Code with existing building codes. They also noted that steps had begun towards increased oversight of building contractors, including voluntary certification programs run by trade associations and voluntary certification programs administered by the state targeted towards specific specialties. The Department again noted a lack of a clear scope of practice for building contractors, as well as the lack of a clear funding source.

[A copy of the report is included.](#)

There were other bills related to the licensing of home contractors during the 124th, 125th, 126th, and 129th Legislatures.

PROPOSED AMENDMENTS:

- Representative Roberts offered a proposed amendment to the committee.

POTENTIAL ISSUES:

- As Commissioner Head noted in her testimony, certification is a voluntary process by a non-governmental entity. Licensure is a mandatory process by a state or municipal government.
- It should be noted that this resolve directs the Department of Professional and Financial Regulation, in conjunction with the Department of Labor, to study the development of a voluntary licensing system for general contractors for home improvement and construction and requires the study to address the costs, state agency resources, implementation, and potential impacts on the construction industry, but it does not provide a framework for a voluntary licensing system, nor a definition for general contractors for home improvement and construction.

OTHER CONSIDERATIONS:

- If this bill results in a Sunrise Review, funding will need to be allocated.

FISCAL IMPACT:

- [Fiscal Note Required: Yes](#)
 - The Administrative Services - Professional and Financial Regulation program within the Department of Professional and Financial Regulation will require a one-time Other Special Revenue Funds allocation of \$15,000 in fiscal year 2021-22 to contract with a consultant to study the development of a voluntary licensing system for general contractors for home improvement and construction.

LINKS:

- [LD 195](#) (Original Bill)
- [Testimony](#)
- [5 MRSA §12015](#) (Sunrise Review) and 32 MRSA [§60-J through §60-L](#) (use the arrow in the top right corner to move through the sections)
- [Side-by-side comparison of CT and RI contractor licensing](#)