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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2009

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A N A C T

RELATING TO BUSINESSES AND PROFESSIONS

Introduced By: Representative Timothy A. Williamson

Date Introduced: February 12, 2009

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 5 of the General Laws entitled "BUSINESSES AND PROFESSIONS"
2 is hereby amended by adding thereto the following chapter:

3 CHAPTER 20.1

4 UNDERGROUND UTILITY CONTRACTORS

5 **5-20.1-1. Purpose.** – The purpose of this chapter is to establish provisions, qualifications
6 and procedures for licensing underground utility contractors engaged in the laying or repairing of
7 underground utilities.

8 **5-20.1-2. Definitions.** – The following words and phrases shall have the meanings stated
9 herein when used in this chapter:

10 (1) “Underground utility contractor” means any corporation, association, sole
11 proprietorship, firm, partnership, limited liability corporation, limited liability partnership, or
12 other business organization which is engaged in the installation, repair, alteration or replacement
13 or underground utilities outside of buildings, making connections with public and/or private
14 underground utilities provided that such work is to be done between the main, laterals, services
15 and/or appurtenances to within five feet (5’) of the outer walls of a building or structure. The term
16 “underground utility contractor” shall include any agent, servant and/or employee of a licensed
17 underground utility contractor. The term “underground utility contractor” does not include
18 individuals licensed under chapter 5-20;

19 (2) The term “underground utility contracting” means the installation, repair, alteration or

1 replacement of underground utilities which shall include, but are not limited to, sewer lines, storm
2 drainage lines or water lines, mains and laterals, laying drains and related services outside of
3 buildings, making connections with public and/or private underground utilities excluding any
4 such work performed within the scope of the mechanical trades covered under Rhode Island
5 General Laws section 28-27-28 and provided that such work is to be done between the main,
6 lateral, related services and/or appurtenances to within five feet (5') of the outer wall of a
7 building or structure;

8 (3) The term "licensing municipality" means the municipality wherein an underground
9 utility contractor:

10 (i) Resides; or

11 (ii) Maintains a business location.

12 **5-20.1-3. License required.** – (a) It is unlawful for any underground utility contractor to
13 engage in the installation, repair, alteration or replacement of sewer lines and services, located
14 between the main or laterals services and/or appurtenances to within five feet (5') of the outer
15 walls of a building or structure without a valid license issued annually by a licensing
16 municipality; provided, however, that a city or town is not prohibited from requiring a license for
17 storm drainage or water lines; and

18 (b) Any person licensed as a master plumber under the provisions of chapter 5-20 shall be
19 exempt from the requirement to obtain both and underground utility contractor's license as
20 required by this chapter and an installers license as required by chapter 556; provided, that
21 master plumbers are required to comply with the provisions of section 5-20.1-10 and 5-56-7; and

22 (c) Any public utility or agent thereof regulated by the public utilities commission shall
23 be exempt from the provisions of this chapter.

24 **5-20.1-4. Conditions for obtaining an underground utility contractor's license.** – (a)
25 To obtain a license under this chapter, an underground utility contractor must submit to a
26 licensing municipality an application for an underground utility contractor's license completed in
27 its entirety, together with a fee as designated by the licensing municipality. The application must
28 also comply with any requirements established by licensing municipality which may include:

29 (1) Demonstrating to the licensing municipality that the underground utility contractor is
30 capable of installing, repairing, altering or replacing sewer lines, storm drainage lines or water
31 lines and services in accordance with approved plans and specifications;

32 (2) Obtaining a passing grade on a written examination given by the licensing
33 municipality, intended to demonstrate an understanding of the rules and regulations, and an
34 ability to read and interpret approved plans and specifications. Any applicant who fails in an

1 examination for a license is permitted to take further examinations upon payment for each
2 examination of the prescribed fee.

3 (b) In the event municipality determines not to grant licenses to any underground utility
4 contractors, an underground utility contractor residing or maintaining its business in the
5 municipality may apply for a license in any other municipality and shall become subject to that
6 municipality’s licensing requirements and enforcement practices.

7 **5-20.1-5. Expiration and renewal of licenses.** – All licenses of underground utility
8 contractors issued by a licensing municipality shall expire annually on the anniversary date of the
9 license’s issuance and may be renewed on or before that date for a period of one year, upon
10 compliance with section 5-20.1-4.

11 **5-20.1-6. Licensing of underground utility contractors granted without examination**
12 **. – (a) After enactment of this chapter and at any time prior to the expiration of twelve (12)**
13 **months following enactment of this section, each licensing municipality shall, without**
14 **examination, upon payment of the fees required by this chapter, issue a license to any applicant**
15 **who shall present satisfactory evidence as described in subsection (b) of this section that the**
16 **applicant has the qualifications for issuance of an underground utility contractor license. After the**
17 **initial “grandfather” window, any eligible underground utility contractor not licensed in any**
18 **municipality in the prior twelve (12) months provided for in this section may be required to pass a**
19 **written examination and show the aforementioned proof of eligibility;**

20 (b) Satisfactory evidence shall be any of the following that is applicable:

21 (1) The owner(s) of an enterprise must have been active as a sewer/drain layer installer
22 for the previous three (3) years;

23 (2) Notarized conformation under penalty of perjury by three (3) underground utility
24 contractors of his/her or it’s active standing as an underground utility contractor; or

25 (3) The contractor or licensee shall provide satisfactory evidence that they have
26 previously been granted a license as a sewer/drain layer installer by three (3) or more Rhode
27 Island cities or towns granting or issuing such a license.

28 **5-20.1-7. Responsibilities, performance and conduct.** – A licensed underground utility
29 contractor shall:

30 (1) Perform all work in compliance with plans and specifications approved by the
31 appropriate authority having jurisdiction over the utility; and

32 (2) Perform all work in compliance with all federal, state and local health and safety
33 requirements.

34 **5-20.1-8. Bond requirement.** – Every applicant for a certificate of license as an

1 underground utility contractor, to carry on the business of installing, repairing or servicing,
2 alteration or replacement of mains, laterals, services and/or appurtenances and related services in
3 accordance with this chapter, shall furnish a bond in the sum of ten thousand dollars (\$10,000)
4 with one or more sureties, conditioned substantially that the applicant indemnifies and holds
5 harmless the cities and towns of this state and their officers from all suits and actions of every
6 name and description brought against any of those cities or towns or any of their officer or
7 officers, for or an account of any injuries or damages received or sustained by any person in
8 consequence of or resulting from any work performed by the applicant, or its employees, servants
9 or agents, or of or from any improper materials used in the work, or of or from any negligence in
10 guarding the work, or of or form any act or omission of the applicant, or its employees, servants
11 or agents.

12 **5-20.1-9. License not transferable or assignable.** – Underground utility contractor’s
13 licenses are not transferable or assignable and automatically become invalid upon a change of
14 ownership or upon suspension or revocation.

15 **5-20.1-10. Penalties for violations.** – Violation of any provision of this chapter shall be
16 subject to the penalties as follows: any corporation, association, sole proprietorship, firm,
17 partnership, limited liability corporation, limited liability partnership or other business
18 organization, shall be subject to a fine, which shall be set by the licensing municipality and
19 payable to the licensing municipality but shall not be greater than five hundred dollars (\$500) for
20 the first offense, and the for the second and subsequent violations of this chapter, is subject to a
21 fine not greater than nine hundred fifty dollars (\$950)

22 **5-20.1-11. Enforcement.** – It is the duty of the appropriate local municipal authority
23 and/or the licensing authority to enforce the provisions of this chapter. Any licensed underground
24 utility contractor aggrieved by a decision of the appropriate local municipality authority of the
25 licensing municipality shall have the right to appeal said decision pursuant to chapter 42-35 The
26 Administrative Procedures Act.

27 **5-20.1-12. Severability .** – If any provision of this chapter or the application thereof to
28 any person or circumstances is held invalid, such invalidity shall not affect other provisions or
29 applications of the chapter, which can be given effect without the invalid provision or application,
30 and to this end the provisions of this chapter are declared to be severable.

31 SECTION 2. Section 5-20-11 of the General Laws in Chapter 5-20 entitled "Plumbers
32 and Irrigators" is hereby repealed.

33 ~~**5-20-11. Licensing of drainlayers and installers.** -- (a) Nothing in this chapter prohibits~~
34 ~~any city or town from granting a license to any person as a drainlayer to engage in the laying of~~

1 ~~drains outside of buildings, making connections with the public sewers, private drains and~~
2 ~~cesspools; provided, that the holder of a certificate or license issued by the department of labor~~
3 ~~and training in conformity with this chapter is not required by any city or town to obtain any other~~
4 ~~license for the installation, maintenance, or repair of plumbing or the laying of drains.~~

5 ~~(b) Persons licensed as master plumbers under the provisions of this chapter are not~~
6 ~~required to obtain an installer's license as required by chapter 56 of title 5; provided, that master~~
7 ~~plumbers are required to comply with the provisions of section 5-56-7.~~

8 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO BUSINESSES AND PROFESSIONS

1 This act would create a comprehensive licensing structure for the underground utility
2 construction industry.

3 This at would take effect upon passage.

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