

2009 -- S 0464

LC01392

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2009

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS

Introduced By: Senators Walaska, and Bates

Date Introduced: February 25, 2009

Referred To: Senate 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 of 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 20 of title 5, entitled "Plumbers and Irrigators."

19 (2) The term "underground utility contractin g" 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 building
7 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 lateral services and/or appurtenances to within five feet (5') of the outer
15 walls of a building or structure without a valid triannual license issued by one licensing
16 municipality; provided, however, that a city or town is not prohibited from requiring a license for
17 storm drainage or water lines.

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

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
31 waterlines 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 a municipality determines not to grant licenses to any underground utility
4 contractors, an underground utility contractor residing or maintaining its business in that
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
17 the 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('s), for or
7 on account of any injuries or damages received or sustained by any person in consequence of or
8 resulting from any work performed by the applicant, or its employees, servants or agents, or of or
9 from any improper materials used in the work, or of or from any negligence in guarding the work,
10 or of or from any act or omission of the applicant, or its employees, servants or agents.

11 **5-20.1-9. License not transferable or assignable.** – Underground utility contractor's
12 licenses are not transferable or assignable and automatically become invalid upon a change of
13 ownership or upon suspension or revocation.

14 **5-20.1-10. Penalties for violations.** – Violation of any provision of this chapter shall be
15 subject to the penalties as follows: any corporation, association, sole proprietorship, firm,
16 partnership, limited liability corporation, limited liability partnership or other business
17 organization, shall be subject to a fine, which shall be set by the licensing municipality and
18 payable to the licensing municipality but shall not be greater than five hundred dollars (\$500) for
19 the first offense and for the second and subsequent violations of this chapter is subject to a fine
20 not greater than nine hundred fifty dollars (\$950).

21 **5-20.1-11. Enforcement.** – It is the duty of the appropriate local municipal authority
22 and/or the licensing authority to enforce the provisions of this chapter. Any licensed underground
23 utility contractor aggrieved by a decision of the appropriate local municipal authority or the
24 licensing municipality shall have the right to appeal said decision pursuant to the administrative
25 procedures act, chapter 35 of title 42.

26 **5-20.1-12. Severability.** – If any provision or part of this chapter, or its application to any
27 entity or circumstance, is held unconstitutional or otherwise invalid, the remaining provisions of
28 this chapter and the application of the provisions to other entities or circumstances other than
29 those to which it is held invalid shall not be affected by that invalidity.

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

32 ~~**5-20-11. Licensing of drainlayers and installers.** -- (a) Nothing in this chapter prohibits~~
33 ~~any city or town from granting a license to any person as a drainlayer to engage in the laying of~~
34 ~~drains outside of buildings, making connections with the public sewers, private drains and~~

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

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

7 SECTION 3. This act shall take effect on January 1, 2010.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO BUSINESSES AND PROFESSIONS

1 This act would establish provisions, qualifications and procedures for the licensing of
2 underground utility contractors.

3 This act would take effect on January 1, 2010.

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