

326B.701 CONSTRUCTION CONTRACTOR REGISTRATION.

Subdivision 1. **Definitions.** The following definitions apply to this section:

(a) "Business entity" means a person other than an individual or a sole proprietor.

(b) "Document" or "documents" includes papers; books; records; memoranda; data; contracts; drawings; graphs; charts; photographs; digital, video, and audio recordings; records; accounts; files; statements; letters; e-mails; invoices; bills; notes; and calendars maintained in any form or manner.

Subd. 2. **Applicability; registration requirement.** (a) Persons who perform public or private sector commercial or residential building construction or improvement services as described in subdivision 2 must register with the commissioner as provided in this section. The purpose of registration is to assist the Department of Labor and Industry, the Department of Employment and Economic Development, and the Department of Revenue to enforce laws related to misclassification of employees.

(b) Except as provided in paragraph (c), any person who performs construction services in the state on or after September 15, 2012, must register with the commissioner as provided in this section before performing construction services for another person. The requirements for registration under this section are not a substitute for, and do not relieve a person from complying with, any other law requiring that the person be licensed, registered, or certified.

(c) The registration requirements in this section do not apply to:

(1) a person who, at the time the person is performing the construction services, holds a current license, certificate, or registration under chapter 299M or 326B;

(2) a person who holds a current independent contractor exemption certificate issued under this section that is in effect on September 15, 2012, except that the person must register under this section no later than the date the exemption certificate expires, is revoked, or is canceled;

(3) a person who has given a bond to the state under section 326B.197 or 326B.46;

(4) an employee of the person performing the construction services, if the person was in compliance with laws related to employment of the individual at the time the construction services were performed;

(5) an architect or professional engineer engaging in professional practice as defined in section 326.02, subdivisions 2 and 3;

(6) a school district or technical college governed under chapter 136F;

(7) a person providing construction services on a volunteer basis, including but not limited to Habitat for Humanity and Builders Outreach Foundation, and their individual volunteers when engaged in activities on their behalf; or

(8) a person exempt from licensing under section 326B.805, subdivision 6, clause (5).

Subd. 3. **Registration application.** (a) Persons required to register under this section must submit electronically, in the manner prescribed by the commissioner, a complete application according to paragraphs (b) to (d).

(b) A complete application must include all of the following information about any individual who is registering as an individual or a sole proprietor, or who owns 25 percent or more of a business entity being registered:

- (1) the individual's full legal name and title at the applicant's business;
- (2) the individual's business address and telephone number;
- (3) the percentage of the applicant's business owned by the individual; and
- (4) the individual's Social Security number.

(c) A complete application must also include the following information:

(1) the applicant's legal name; assumed name filed with the secretary of state, if any; designated business address; physical address; telephone number; and e-mail address;

(2) the applicant's Minnesota tax identification number, if one is required or has been issued;

(3) the applicant's federal employer identification number, if one is required or has been issued;

(4) evidence of the active status of the applicant's business filings with the secretary of state, if one is required or has been issued;

(5) whether the applicant has any employees at the time the application is filed;

(6) the names of all other persons with an ownership interest in the business entity who are not identified in paragraph (b), and the percentage of the interest owned by each person, except that the names of shareholders with less than ten percent ownership in a publicly traded corporation need not be provided;

(7) information documenting compliance with workers' compensation and unemployment insurance laws;

(8) a certification that the person signing the application has: reviewed it; determined that the information provided is true and accurate; and determined that the person signing is authorized to sign and file the application as an agent of the applicant. The name of the person signing, entered on an electronic application, shall constitute a valid signature of the agent on behalf of the applicant; and

(9) a signed authorization for the Department of Labor and Industry to verify the information provided on or with the application.

(d) A registered person must notify the commissioner within 15 days after there is a change in any of the information on the application as approved. This notification must be provided electronically in the manner prescribed by the commissioner. However, if the business entity structure or legal form of the business entity has changed, the person must submit a new registration application and registration fee, if any, for the new business entity.

(e) The registered person must remain registered while providing construction services for another person. The provisions of sections 326B.091, 326B.094, 326B.095, and 326B.097 apply to this section. A

person with an expired registration shall not provide construction services for another person if registration is required under this section. Registration application and expiration time frames are as follows:

(1) all registrations issued on or before December 31, 2015, expire on December 31, 2015;

(2) all registrations issued after December 31, 2015, expire on the following December 31 of each odd-numbered year; and

(3) a person may submit a registration or renewal application starting October 1 of the year the registration expires. If a renewal application is submitted later than December 1 of the expiration year, registration may expire before the department has issued or denied the registration.

Subd. 4. Web site. (a) The commissioner shall develop and maintain a Web site on which applicants for registration can submit a registration application. The Web site shall be designed to receive and process registration applications and promptly issue registration certificates electronically to successful applicants.

(b) The commissioner shall maintain the certificates of registration on the department's official public Web site, which shall include the following information:

(1) the registered person's legal business name, including any assumed name, as filed with the secretary of state;

(2) the person's business address designated on the application; and

(3) the effective date of the registration and the expiration date.

Subd. 5. Prohibited activities related to registration. (a) The prohibited activities in this subdivision are in addition to those prohibited in sections 326B.081 to 326B.085.

(b) A person who provides construction services in the course of the person's trade, business, occupation, or profession shall not:

(1) contract with or perform construction services for another person without first being registered if required by this section;

(2) contract with or pay another person to perform construction services if the other person is not registered if required by subdivision 2. All payments to an unregistered person for construction services on a single project site shall be considered a single violation. It is not a violation of this clause:

(i) for a person to contract with or pay an unregistered person if the unregistered person was registered at the time the contract for construction services was entered into; or

(ii) for a homeowner or business to contract with or pay an unregistered person if the homeowner or business is not in the trade, business, profession, or occupation of performing building construction or improvement services; or

(3) be penalized for violations of this subdivision that are committed by another person. This clause applies only to violations of this paragraph.

Subd. 6. **Enforcement; remedies; and penalties.** (a) Notwithstanding the maximum penalty amount in section 326B.082, subdivisions 7 and 12, the maximum penalty for failure to register is \$2,000, but the commissioner shall forgive the penalty if the person registers within 30 days of the date of the penalty order.

(b) The penalty for contracting with or paying an unregistered person to perform construction services in violation of subdivision 5, paragraph (b), clause (2), shall be as provided in section 326B.082, subdivisions 7 and 12, but the commissioner shall forgive the penalty for the first violation.

Subd. 7. **Notice requirement.** Notice of a penalty order for failure to register must include a statement that the penalty shall be forgiven if the person registers within 30 days of the date of the penalty order.

Subd. 8. **Data classified.** Data in applications and any required documentation submitted to the commissioner under this section are private data on individuals or nonpublic data as defined in section 13.02. Data in registration certificates issued by the commissioner are public data; except that registration information published on the department's Web site may be accessed for registration verification purposes only. Data that document a revocation or cancellation of a certificate are public data. Upon request of the Department of Revenue or the Department of Employment and Economic Development, the commissioner may release to the requesting department data classified as private or nonpublic under this subdivision or investigative data that are not public under section 13.39 that relate to the issuance or denial of applications or revocations of certificates.

History: 2007 c 135 art 3 s 15; 2010 c 347 art 3 s 1; 1Sp2011 c 4 art 3 s 1; 2012 c 295 art 2 s 3,4,5,7,10; 2014 c 305 s 14,15,17,26,31; 2015 c 54 art 1 s 18