**South Carolina General Assembly**

118th Session, 2009-2010

**H. 3965**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. G.M. Smith

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Introduced in the House on April 23, 2009

Currently residing in the House Committee on **Labor, Commerce and Industry**

Summary: Contractor regulation

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

4/23/2009 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2009\04-23-09.docx)‑276

4/23/2009 House Referred to Committee on **Labor, Commerce and Industry** [HJ](file:///h:\HJ%20Archive\2009\04-23-09.docx)‑276

**VERSIONS OF THIS BILL**

[4/23/2009](file:///p:\pprever\2009-10\3965_20090423.docx)

**A** **BILL**

TO AMEND SECTION 40‑11‑170, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ASSESSING COSTS OF INVESTIGATION AND PROSECUTION OF A CASE AGAINST A PERSON FOUND IN VIOLATION OF CHAPTER 11, TITLE 40, WHICH PROVIDES FOR THE LICENSURE AND REGULATION OF CONTRACTORS, SO AS TO PROVIDE THAT THE DEPARTMENT MAY NOT ASSESS SUCH COSTS; TO AMEND SECTION 40‑11‑370, AS AMENDED, RELATING TO THE PROHIBITION AGAINST ENGAGING IN CONSTRUCTION IN A NAME OTHER THAN THE EXACT NAME THAT APPEARS ON THE ENTITY’S CONTRACTOR’S LICENSE AND PROHIBITING ENFORCEMENT OF A CONTRACT IF THE ENTITY ENTERED THE CONTRACT IN A NAME OTHER THAN THE NAME THAT APPEARS ON THE ENTITY’S LICENSE, SO AS TO PROVIDE THAT AN ENTITY MAY NOT ENGAGE IN CONSTRUCTION UNDER A NAME OR A LICENSE NUMBER OTHER THAN THAT WHICH APPEARS ON THE ENTITY’S LICENSE AND TO PROVIDE THAT AN ENTITY MAY ONLY ENFORCE A CONSTRUCTION CONTRACT IF THE ENTITY EITHER ENTERED THE CONTRACT IN THE NAME THAT APPEARS ON THE ENTITY’S LICENSE OR IF THE CONTRACT CONTAINED THE LICENSE NUMBER THAT APPEARS ON THE ENTITY’S LICENSE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 40‑11‑170 of the 1976 Code is amended to read:

“Section 40‑11‑170. ~~A~~ Notwithstanding the provisions of Chapter 1 or any other provision of law, the department may not assess a person costs associated with the investigation or prosecution, or both, of a case in which the person is found in violation of this chapter or regulations promulgated under this chapter ~~may be required to pay costs associated with the investigation and prosecution of the case in accordance with Section 40‑1‑170~~.”

SECTION 2. Section 40‑11‑370 of the 1976 Code, as amended by Act 32 of 2001, is further amended to read:

“Section 40‑11‑370. (A) It is unlawful to use the term ‘licensed contractor’ or to perform or offer to perform general or mechanical construction without first obtaining a license as required by this chapter.

(B) It is unlawful to engage in construction under a name or license number other than the exact name or exact license number ~~which~~ that appears on the license issued pursuant to this chapter. ‘Engaging in construction’ includes marketing, advertising, using site signs, and submitting contracts. It is not a violation of this ~~requirement does not include~~ subsection, so long as an advertisement is not misleading, if the advertisement:

(1) ~~advertising~~ on ~~vehicles~~ a vehicle~~, which may use~~ uses an abbreviated version of the license name ~~so long as the advertising is not misleading~~; or

(2) substantially includes the name of the licensed person or entity.

(C)(1) An entity ~~which~~ that does not have a valid license as required by this chapter may not bring an action either at law or in equity to enforce the provisions of a contract.

(2) An entity ~~that enters into a contract to engage in construction in a name other than the name that appears on its license~~ licensed pursuant to this chapter may ~~not~~ bring an action either at law or in equity to enforce the provisions of ~~the~~ a contract to engage in construction only if either:

(a) the entity entered into the contract in the name that appears on its license; or

(b) the contract contained the license number that appears on the entity’s license.”

SECTION 3. This act takes effect upon approval by the Governor.

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