

SENATE No. 107

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to the registration of irrigation contractors..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. The General Laws, as appearing in the 2006 Official Edition, is hereby
2 amended after Chapter 142A, by adding at the following new chapter:-

3 CHAPTER 142B: REGULATION OF IRRIGATION CONTRACTORS AND
4 IRRIGATION CONTRACTING BUSINESSES

5 Section 1. Definitions

6 The following words as used in this chapter, unless the context otherwise requires, shall
7 have the following meanings:

8 “Administrator”, the chief administrator of the board of building regulations and
9 standards, an agency within the executive office of public safety, established by section 18 of
10 chapter 6A.

11 “Board”, the Board of Building Registration and Standards.

12 “Business permit”, a business that holds a permit as approved by the board
13 entitling it to be called by the title “irrigation contracting business” and which employs at least
14 one irrigation contractor, certified under the provisions of this act.

15 “Certified irrigation contractor”, an individual who meets all the requirements of
16 the EPA WaterSense program and is certified as such in good standing with the irrigation
17 association.

18 “Certified irrigation designer”, an individual who meets all the requirements of
19 the EPA WaterSense program and is certified as such in good standing with the irrigation
20 association.

21 “Certified landscape irrigation auditor”, an individual who meets all the
22 requirements of the EPA WaterSense program and is certified as such in good standing with the
23 irrigation association.

24 “Division”, the Massachusetts Division of Insurance.

25 “Irrigation association”, the worldwide professional trade organization that
26 establishes and maintains industry standards and guidelines for certification, education and
27 professional development and promotes modern water management skills and techniques for
28 irrigated agriculture, turf, landscape and golf.

29 “Irrigation contracting”, the construction, installation, repair, maintenance,
30 improvement, winterization and alteration of any portion of an irrigation system.

31 “Irrigation contractor”, a person who holds a certificate entitling him to be called by the
32 title “irrigation contractor” in the commonwealth under the authority of section two hundred and
33 twenty seven.

34 “Irrigation system”, any assemblage of components, materials or special equipment
35 which is constructed and installed underground or on the surface for controlled dispersion of
36 water from any safe and suitable source, for the purpose of irrigating landscape vegetation or the
37 control of dust and erosion on landscaped areas, including integral pumping systems and
38 including required wiring within that system and connection to a public or private water supply
39 system under the terms and conditions of a contract. An irrigation system, when connected to a
40 potable water supply, shall include a connection beginning at the downstream side of a properly
41 installed backflow prevention device as required under 248 CMR 10.00. An irrigation system
42 shall not include plumbing or a plumbing system as defined in Chapter 142 of the General Laws.

43 “Professional irrigation consultant”, an independent irrigation designer responsible for
44 the preparation of irrigations system plans and specifications, the observation of system
45 construction and recommendations for irrigation management and who derives more than eighty
46 percent of their income from professional consulting.

47 Section 2. Registration of contractors

48 (a) No person shall construct, install, repair, maintain, winterize or alter any portion of an
49 irrigation system in the commonwealth nor shall they represent themselves to be an irrigation
50 contractor or use the title irrigation contractor in the commonwealth on any advertisement, sign,
51 title, card or other device to indicate that such person is a irrigation contractor, unless registered
52 with the approval of the board of building regulations and standards. A person may construct,

53 install, repair, maintain, winterize or alter any portion of an irrigation system in the
54 commonwealth if under the direct supervision of a certified irrigation contractor. Every holder
55 of a certificate of such registration shall display it in a conspicuous place in his principal office
56 or place of employment, and on any specifications or plans specifically used in the development,
57 management and installation of an irrigation system and on all advertisements, signs, tiles, cards
58 and must display their registration number on any vehicles used for such commercial purposes.

59 (b) It shall be the duty of the administrator to issue and deliver a certificate of registration
60 to all applicants who have been approved for registration.

61 Section 3. Registration applications; required information

62 In order to be registered as an irrigation contractor, an applicant shall make written
63 application under oath to the administrator on a form provided by him. Said application shall
64 include but may not be limited to verification that that they are at least eighteen years of age; are
65 a citizen of the United States or have legally declared their intention of so becoming; are duly
66 certified in good standing as a certified irrigation contractor or certified irrigation designer by an
67 approved and independent third party; and, whether the applicant has ever been previously
68 registered in the commonwealth as an irrigation contractor pursuant to this chapter, under what
69 other names he was previously registered, whether there have been previous judgments or
70 arbitration awards against him, whether there is money owing to the fund on account of such
71 judgments or awards against him, and whether his registration has ever been suspended or
72 revoked. Every applicant for registration as an irrigation contractor shall be required, in addition
73 to all other requirements, to establish, by written examination, his competency to plan, construct,

74 manage, install and supervise the installation of irrigation systems. Each written examination
75 may be supplemented by such oral examinations as the board shall determine.

76 Section 4. Continuing education

77 The board shall establish continuing education standards and requirements for the
78 renewal of an irrigation contractor certificate, including the subject matter, type and number of
79 credits required for each renewal. The board shall approve qualifying, continuing education
80 programs including but not limited to programs provided by accredited educational institutions
81 or relevant professional and technical associations. The board may waive continuing education
82 requirements required under this act on an individual basis for reasons of illness, undue hardship,
83 disability, retirement or other cause it deems appropriate.

84 Section 5. Exemptions

85 The following shall not be required to be registered as an irrigation contractor pursuant to
86 this chapter:

87 (a) An employee working under the direct supervision of a certified irrigation
88 contractor;

89 (b) A homeowner who installs an irrigation system at his or her place of
90 residence;

91 (c) Anyone in the employ of a golf course for the purpose of maintaining or
92 repairing an existing irrigation system; and

93 (d) Anyone installing an irrigation system to irrigate field crops, grain, soy beans,
94 hay, fruits, vegetables, Christmas trees, horticultural specialties to be offered for sale, including
95 nursery stock, ornamental shrubs, ornamental trees, flowers, and turf on turf farms;

96 (e) Vendors of irrigation contracting components, materials, or equipment who
97 perform only such functions as delivery, rendering of advice or assistance in the installation or
98 normal warranty service or exchange of defective or damaged goods;

99 (f) Duly certified and in good standing landscape architectural firms, professional
100 engineering firms and irrigation consulting firms providing only design and oversight services of
101 irrigation system projects on a full time basis.

102 Section 6. Business permits; necessity; display

103 No firm, partnership or corporation shall represent themselves as an irrigation contracting
104 business or use the title irrigation contracting business in the commonwealth on any
105 advertisement, sign, title, card or other device to indicate that such person is an irrigation
106 contracting business, unless such firm, partnership or corporation shall have secured from the
107 board a business permit as an irrigation contracting business or is acting under the direct
108 supervision of a certified irrigation contractor. Every holder of a business permit shall display it
109 in a conspicuous place in its principal office. Nothing herein shall be construed to prevent a
110 firm, partnership or corporation from using the title “irrigation contractor” or “irrigation
111 contractors”, or similar title provided that the practice of irrigation contracting by such firm,
112 partnership or corporation shall be under the professional and supervisory control of a person
113 registered as a irrigation contractor and the entity holds a valid business permit.

114 Section 7. Qualifications for business permits

115 In order to register for an original business permit or renewal of a business permit,
116 applicants are required to provide proof of liability and workers compensation policies, surety
117 bond, irrevocable letter of credit and that at least one certified irrigation contractor is employed
118 by the applicant. Said proof of insurance shall be completed on a form provided or approved by
119 the Board and shall be issued in the name of the business permit holder. The board shall be
120 listed as a certificate holder and notified in any lapses of coverage.

121 Section 8. Certificate of registration and business permit fees

122 Applicants for certificates of registration and for business permits shall pay a fee, to be
123 established bi-annually by the secretary for administration and finance pursuant to section three
124 B of chapter seven and shall be paid to the board on or before the thirty-first day of January of
125 every other year. Each initial certificate of registration issued in accordance with this act shall
126 expire on January 31 of the second calendar year following issuance. All certificates of
127 registration issued thereafter shall remain valid for a period of two years and shall expire January
128 31 of the second calendar year. A new permit issued anytime after the January 31 issuance date
129 shall remain valid until the regular January 31 date of expiration.

130 The board may asses a penalty to be added to the amount of the certificate for delinquent
131 payments.

132 Failure to renew certificate of registration within sixty days after notification by the board
133 that said certificate has expired, shall require such applicant to register anew and may require re-
134 examination, subject to the discretion of the board.

135 Fees for duplicate certificates shall also be established bi-annually by the secretary for
136 administration and finance and shall be collected at the time of the request for such documents.

137 Fees for business permits shall be determined bi-annually by the secretary for
138 administration and finance pursuant to section three B of chapter seven and shall be paid to the
139 board. Each initial business permit issued in accordance with this act shall expire on January 31
140 of the second calendar year following issuance. All permits issued thereafter shall remain valid
141 for a period of two years and shall expire January 31 of the second calendar year. A new permit
142 issued anytime after the January 31 issuance date shall remain valid until the regular January 31
143 date of expiration.

144 Section 9. Suspension, revocation or refusal of certificates and business permits; re-
145 issuance

146 The board may refuse to issue, renew, suspend or revoke the certificate of registration or
147 business permit upon proof satisfactory to the board:

148 (a) that the holder of such certificate of registration or business permit is in
149 violation of any provision of sections two hundred and twenty-seven to two hundred and thirty-
150 five, inclusive, or of any rule or regulation promulgated by the board;

151 (b) that such certificate of registration or business permit was obtained by fraud or
152 misrepresentation;

153 (c) that any money or thing of value, except fees prescribed or authorized by said
154 sections, was paid or received to secure the issuance of such certificate of registration or business
155 permit;

156 (d) that the holder of such certificate of registration or business permit has been
157 guilty of a felony;

158 (e) that the holder of such certificate of registration or business permit has been
159 guilty of fraud or deceit, or of gross negligence, incompetence or misconduct, in the use of the
160 title of irrigation contractor; or

161 (f) that the holder of such certificate of registration or business permit has
162 permitted or suffered his certificate to be affixed to any system plans or specifications that were
163 not prepared by him or under his personal supervision by his regularly employed subordinates.

164 The board may reissue a certificate of registration or business permit to any person whose
165 certificate of registration or business permit has been revoked. Application for the re-issuance of
166 a certificate of registration or business permit shall be made in such manner as the board may
167 direct.

168 Section 10. Powers and Duties of the Board of Board of Building Regulations and
169 Standards

170 The board shall review applications for certification, develop and conduct the proper
171 examinations for certification, register and issue certificates of registration, take appropriate
172 disciplinary action, including but not limited to the assessment of penalties or the suspension or
173 revocation of said certification, require continuing education requirements, and maintain a
174 current roster of irrigation contractors in the commonwealth.

175 The board shall review applications for business permits, issue business permits to firms,
176 partnerships or corporations engaged in the business of irrigation contracting and define any
177 restrictions or requirements regarding the use of such permit.

178 The board shall take appropriate disciplinary action, including but not limited to the
179 assessment of penalties or the suspension or revocation of said business permit, and maintain a
180 current roster of permitted irrigation contracting businesses in the commonwealth.

181 The board may adopt, amend and rescind such rules and regulations, not inconsistent
182 with other provisions of the General Laws, as it deems necessary to carry out the provisions of
183 this chapter.

184 Section 11. Unlawful conduct; penalties

185 It shall be unlawful for any person to:

186 (a) hold himself as an irrigation contractor unless he is registered under the
187 provisions of sections two hundred and twenty-seven to two hundred and thirty-five, inclusive;

188 (b) present as his own the certificate of registration of another;

189 (c) give false or forged evidence to the board of registration or any member
190 thereof in obtaining a certificate;

191 (d) falsely impersonate any other registrant of like or different name;

192 (e) use or attempt to use a certificate of registration that has been revoked; or

193 (f) otherwise violate any of the provisions of said sections.

194 A fine of not less than fifteen hundred dollars nor more than twenty five hundred dollars,
195 or by imprisonment for not more than one year, or both shall be set for a first offense. A fine of
196 not less than twenty five hundred dollars nor more than five thousand dollars, or by
197 imprisonment for not more than two year, or both shall be set for each and every subsequent

198 offense. Violations shall be considered unfair and deceptive acts and subject to the provisions of
199 Chapter 93A of the General Laws.

200 SECTION 2. Chapter 143 of the General Laws is hereby amended by inserting after
201 section 61 the following section:- Section 61A. Notwithstanding any general or special
202 law, rule or regulation to the contrary, the state board of building regulations and standards shall
203 amend the state building code to include system interruption devices for newly installed or
204 renovated outdoor landscape irrigation systems. The board shall adopt rules and regulations for
205 the installation of the system interruption devices to override and suspend the programmed
206 operation of the irrigation system during periods of sufficient moisture and shall specify the
207 criteria that devices must meet to be accepted under this section. These regulations shall be in
208 accordance with generally accepted standards of irrigation practice and shall also include a
209 requirement that all such new irrigation systems be inspected every 3 years by a certified
210 irrigation contractor (CIC), a certified landscape irrigation auditor (CLIA), or a certified
211 irrigation designer (CID). This section shall not apply to systems operating on golf courses or
212 agricultural lands.

213 SECTION 3. Section 93 of Chapter 143 of the General Laws, as appearing in the 2006
214 Official Edition, is hereby amended in the third sentence of the first paragraph by striking the
215 word “eleven” and replacing it with the word:- thirteen

216 Section 93 of Chapter 143 of the General Laws, as so appearing, is hereby further
217 amended third sentence of the first paragraph by adding, after the words “local fire department”,
218 the following:- one of whom shall be a certified irrigation contractor, one of whom shall be a
219 certified irrigation designer,

220 SECTION 4. Section 94 of Chapter 143 of the General Laws, as appearing in the 2006
221 Official Edition is hereby amended in paragraph (a) by adding after the words “installation of
222 equipment,” the following new words:- installation, maintenance and repair of irrigation systems

223 Section 94 of Chapter 143 of the General Laws, as so appearing, is hereby further
224 amended in paragraph (a) by adding after the word “energy,” the following new words:- and
225 water

226 Section 94 of Chapter 143 of the General Laws, as so appearing, is hereby further
227 amended in paragraph (c) by adding after the word “energy,” the following new words:- and
228 water

229 SECTION 5. Section 95 of Chapter 143 of the General Laws, as so appearing, is hereby
230 amended in paragraph (a) by adding after the word “energy,” the following new words:- and
231 water