

SENATE, No. 167

STATE OF NEW JERSEY

211th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2004 SESSION

Sponsored by:

Senator WAYNE R. BRYANT

District 5 (Camden and Gloucester)

Senator PAUL SARLO

District 36 (Bergen, Essex and Passaic)

Co-Sponsored by:

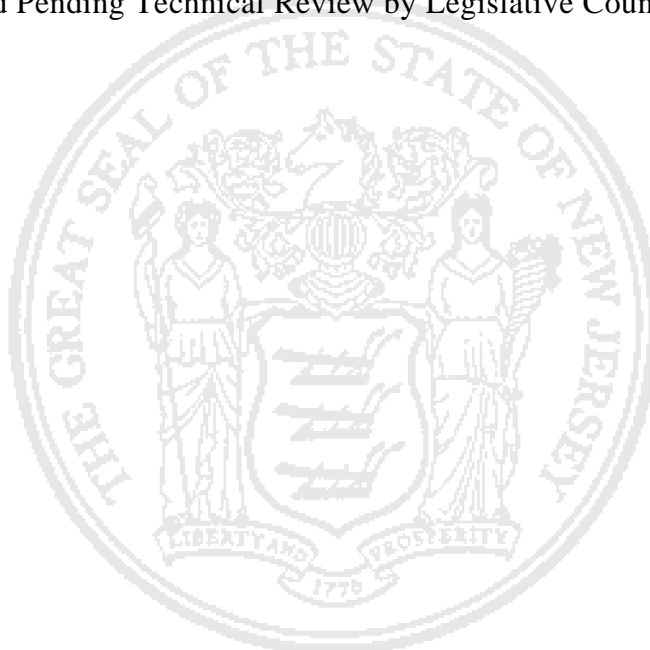
Senators Rice and Madden

SYNOPSIS

Regulates contractors engaging in home improvements.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 3/9/2004)

1 AN ACT concerning contractors engaged in home improvements and
2 supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. This act shall be known and may be cited as the “Contractors’
8 Registration Act.”

9
10 2. As used in this act:

11 "Contractor" means a person engaged in the business of making or
12 selling home improvements and includes a corporation, partnership,
13 association and any other form of business organization or entity, and
14 its officers, representatives, agents and employees.

15 "Director" means the Director of the Division of Consumer Affairs
16 in the Department of Law and Public Safety.

17 "Division" means the Division of Consumer Affairs in the
18 Department of Law and Public Safety.

19 “Home improvement” means the remodeling, altering, renovating,
20 repairing, restoring, modernizing, moving, demolishing, or otherwise
21 improving or modifying of the whole or any part of any residential or
22 non-commercial property. Home improvement shall also include
23 insulation installation, and the conversion of existing commercial
24 structures into residential or non-commercial property.

25 “Home improvement contract” means an oral or written agreement
26 for the performance of a home improvement between a contractor and
27 an owner, tenant or lessee, of a residential or noncommercial property,
28 and includes all agreements under which the contractor is to perform
29 labor or render services for home improvements, or furnish materials
30 in connection therewith.

31 “Residential or non-commercial property” means any single or
32 multi-unit structure used in whole or in part as a place of residence,
33 and all structures appurtenant thereto, and any portion of the lot or
34 site on which the structure is situated which is devoted to the
35 residential use of the structure.

36
37 3. a. No person shall offer to perform, or engage, or attempt to
38 engage in the business of making or selling home improvements unless
39 registered with the Division of Consumer Affairs in accordance with
40 the provisions of this act.

41 b. Every contractor shall annually register with the director.
42 Application for registration shall be on a form provided by the division
43 and shall be accompanied by a reasonable fee, set by the director in an
44 amount sufficient to defray the division’s expenses incurred in
45 administering and enforcing this act.

46 c. Every contractor required to register under this act shall file an

1 amended registration within 20 days after any change in the
2 information required to be included thereon. No fee shall be required
3 for the filing of an amendment.

4
5 4. Except for persons exempted pursuant to section 5 of this act,
6 any person who advertises in print or puts out any sign or card or
7 other device after the effective date of this act which would indicate
8 to the public that he is a contractor in New Jersey, or who causes his
9 name or business name to be included in a classified advertisement or
10 directory in New Jersey after the effective date of this act under a
11 classification for home improvements covered by this act, is subject to
12 the provisions of this act. This section shall not be construed to apply
13 to simple residential alphabetical listings in standard telephone
14 directories.

15
16 5. The provisions of this act shall not apply to:

17 a. Any person required to register pursuant to "The New Home
18 Warranty and Builders' Registration Act," P.L.1977, c.467
19 (C.46:3B-1 et seq.);

20 b. Any person performing a home improvement upon a residential
21 or non-commercial property he owns, or that is owned by a member
22 of his family, a bona fide charity, or other non-profit organization;

23 c. Any person regulated by the State as an architect, professional
24 engineer, landscape architect, land surveyor, electrical contractor,
25 master plumber, or any other person in any other related profession
26 requiring registration, certification, or licensure by the State, who is
27 acting within the scope of practice of his profession;

28 d. Any person who is employed by a community association or
29 cooperative corporation;

30 e. Any public utility as defined under R.S.48:2-13;

31 f. Any person licensed under the provisions of section 16 of
32 P.L.1960, c.41 (C.17:16C-77); and

33 g. Any person employed by a home improvement store with a net
34 worth of more than \$50,000,000.

35
36 6. In addition to any other procedure, condition or information
37 required by this act:

38 a. Every applicant shall file a disclosure statement with the director
39 stating whether the applicant has been convicted of any crime, which
40 for the purposes of this act shall mean a violation of any of the
41 following provisions of the "New Jersey Code of Criminal Justice,"
42 Title 2C of the New Jersey Statutes, or the equivalent under the laws
43 of any other jurisdiction:

44 (1) Any crime of the first degree;

45 (2) Any crime which is a second or third degree crime and is a

1 violation of chapter 20 or 21 of Title 2C of the New Jersey Statutes;
2 or

3 (3) Any other crime which is a violation of N.J.S.2C:5-1, 2C:5-2,
4 2C:11-2 through 2C:11-4, 2C:12-1, 2C:12-3, 2C:13-1, 2C:14-2,
5 2C:15-1, subsection a. or b. of 2C:17-1, subsection a. or b. of 2C:17-
6 2, 2C:18-2, 2C:20-4, 2C:20-5, 2C:20-7, 2C:20-9, 2C:21-2 through
7 2C:21-4, 2C:21-6, 2C:21-7, 2C:21-12, 2C:21-14, 2C:21-15, or 2C:21-
8 19, chapter 27 or 28 of Title 2C of the New Jersey Statutes,
9 N.J.S.2C:30-2, 2C:30-3, 2C:35-5, 2C:35-10, 2C:37-1 through
10 2C:37-4.

11 b. The director may refuse to issue or may suspend or revoke any
12 registration issued by him upon proof that the applicant or holder of
13 the registration:

14 (1) Has obtained a registration through fraud, deception or
15 misrepresentation;

16 (2) Has engaged in the use or employment of dishonesty, fraud,
17 deception, misrepresentation, false promise or false pretense;

18 (3) Has engaged in gross negligence, gross malpractice or gross
19 incompetence;

20 (4) Has engaged in repeated acts of negligence, malpractice or
21 incompetence;

22 (5) Has engaged in professional or occupational misconduct as may
23 be determined by the director;

24 (6) Has been convicted of any crime involving moral turpitude or
25 any crime relating adversely to the activity regulated by this act. For
26 the purpose of this subsection a plea of guilty, non vult, nolo
27 contendere or any other such disposition of alleged criminal activity
28 shall be deemed a conviction;

29 (7) Has had his authority to engage in the activity regulated by the
30 director revoked or suspended by any other state, agency or authority
31 for reasons consistent with this section;

32 (8) Has violated or failed to comply with the provisions of any act
33 or regulation administered by the director;

34 (9) Is incapable, for medical or any other good cause, of
35 discharging the functions of a licensee in a manner consistent with the
36 public's health, safety and welfare.

37 c. An applicant whose registration is denied, suspended, or
38 revoked pursuant to this section shall, upon a written request
39 transmitted to the director within 30 calendar days of that action, be
40 afforded an opportunity for a hearing in a manner provided for
41 contested cases pursuant to the "Administrative Procedure Act,"
42 P.L.1968, c.410 (C.52:14B-1 et seq.).

43 d. An applicant shall have the continuing duty to provide any
44 assistance or information requested by the director, and to cooperate
45 in any inquiry, investigation, or hearing conducted by the director.

46 e. If any of the information required to be included in the

1 disclosure statement changes, or if additional information should be
2 added after the filing of the statement, the applicant shall provide that
3 information to the director, in writing, within 30 calendar days of the
4 change or addition.

5 f. Notwithstanding the provisions of paragraph (6) of subsection
6 b. of this section, no individual shall be disqualified from registration
7 or shall have registration revoked on the basis of any conviction
8 disclosed if the individual has affirmatively demonstrated to the
9 director clear and convincing evidence of the individual's
10 rehabilitation. In determining whether an individual has affirmatively
11 demonstrated rehabilitation, the following factors shall be considered:

12 (1) The nature and responsibility of the position which the
13 convicted individual would hold;

14 (2) The nature and seriousness of the offense;

15 (3) The circumstances under which the offense occurred;

16 (4) The date of the offense;

17 (5) The age of the individual when the offense was committed;

18 (6) Whether the offense was an isolated or repeated incident;

19 (7) Any social conditions which may have contributed to the
20 offense; and

21 (8) Any evidence of rehabilitation, including good conduct in
22 prison or in the community, counseling or psychiatric treatment
23 received, acquisition of additional academic or vocational schooling,
24 successful participation in correctional work-release programs, or the
25 recommendation of persons who have had the individual under their
26 supervision.

27
28 7. a. Every registered contractor who is engaged in home
29 improvements shall secure, maintain and file with the director proof of
30 a certificate of commercial general liability insurance in a minimum
31 amount of \$500,000 per occurrence.

32 b. Every proof of a commercial general liability insurance policy
33 required to be filed with the director shall provide that cancellation or
34 nonrenewal of the policy shall not be effective unless and until at least
35 10 days' notice of intention to cancel or nonrenew has been received
36 in writing by the director.

37
38 8. a. The director may refuse to issue or renew, and may revoke
39 any registration for failure to comply with, or for a violation of the
40 provisions of this act or for any other good cause shown within the
41 meaning and purpose of this act. A refusal or revocation shall not be
42 made except upon reasonable notice to, and opportunity to be heard
43 by, the applicant or registrant.

44 b. The director, in lieu of revoking a registration, may suspend the
45 registration for a reasonable period of time, or assess a penalty in lieu
46 of suspension, or both, and may issue a new registration,

1 notwithstanding the revocation of a prior registration, if the applicant
2 is found to have become entitled to the new registration.

3
4 9. a. All registrants shall prominently display their registration
5 numbers within their places of business, in all advertisements
6 distributed within this State, on business documents, contracts and
7 correspondence with consumers of home improvement services in this
8 State, and on all commercial vehicles registered in this State and
9 leased or owned by registrants and used by registrants for the purpose
10 of providing home improvements, except for vehicles leased or rented
11 to customers of registrants by a registrant or any agent or
12 representative thereof.

13 b. Any invoice, contract or correspondence given by a registrant
14 to a consumer shall prominently contain the toll-free telephone number
15 provided pursuant to section 14 of this act.

16
17 10. The provisions of this act shall apply to any person engaging
18 in any of the activities regulated by this act in this State, including
19 persons whose residence or principal place of business is located
20 outside of this State.

21
22 11. a. It is an unlawful practice and a violation of P.L.1960, c.39
23 (C.56:8-1 et seq.) to violate any provision of this act.

24 b. In addition to any other penalty provided by law, a person who
25 knowingly violates any of the provisions of this act is guilty of a crime
26 of the fourth degree.

27
28 12. a. This act shall supersede any municipal ordinance or
29 regulation that provides for the licensing or registration of contractors
30 or for the protection of homeowners by bonds or warranties required
31 to be provided by contractors, exclusive of those required by water,
32 sewer, utility, or land use ordinances or regulations.

33 b. No municipality shall issue a construction permit for any home
34 improvement to any contractor who is not registered pursuant to the
35 provisions of this act.

36
37 13. This act shall not deny to any municipality the power to inspect
38 a contractor's work or equipment, the work of a contractor who
39 performs improvements to commercial property, or the power to
40 regulate the standards and manners in which the contractor's work
41 shall be done.

42
43 14. a. The director shall establish and undertake a public
44 information campaign to educate and inform contractors and the
45 consumers of this State of the provisions of this act. The public
46 information campaign shall include, but not be limited to, the

1 preparation, printing and distribution of booklets, pamphlets or other
2 written pertinent information.

3 b. The director shall provide a toll-free telephone number for
4 consumers making inquiries regarding contractors.

5
6 15. Nothing in this act shall limit the application of P.L.1960, c.39
7 (C.56:8-1 et seq.), or any regulations promulgated thereunder, in
8 regard to the registration or regulation of contractors.

9
10 16. a. Every home improvement contract for a purchase price in
11 excess of \$500, and all changes in the terms and conditions of the
12 contract, shall be in writing. The contract shall be signed by all parties
13 thereto, and shall clearly and accurately set forth in legible form and
14 in understandable language all terms and conditions of the contract,
15 including but not limited to:

16 (1) The legal name, business address, and registration number of
17 the contractor:

18 (2) A copy of the certificate of commercial general liability
19 insurance required of a contractor pursuant to section 7 of this act and
20 the telephone number of the insurance company issuing the certificate;
21 and

22 (3) The total price or other consideration to be paid by the owner,
23 including the finance charges.

24 b. A home improvement contract may be cancelled by a consumer
25 for any reason at any time before midnight of the third business day
26 after the consumer receives a copy of it. In order to cancel a contract
27 the consumer shall notify the contractor of the cancellation in writing,
28 by registered or certified mail, return receipt requested, or by personal
29 delivery, to the address specified in the contract. All moneys paid
30 pursuant to the cancelled contract shall be fully refunded within
31 30 days of receipt of the notice of cancellation. If the consumer has
32 executed any credit or loan agreement through the contractor to pay
33 all or part of the contract, the agreement or note shall be cancelled
34 without penalty to the consumer and written notice of that cancellation
35 shall be mailed to the consumer within 30 days of receipt of the notice
36 of cancellation. The contract shall contain a conspicuous notice
37 printed in at least 10-point bold-faced type as follows:

38
39 "NOTICE TO CONSUMER

40
41 YOU MAY CANCEL THIS CONTRACT AT ANY TIME
42 BEFORE MIDNIGHT OF THE THIRD BUSINESS DAY
43 AFTER RECEIVING A COPY OF THIS CONTRACT. IF
44 YOU WISH TO CANCEL THIS CONTRACT, YOU MUST
45 EITHER:

1 1. SEND A SIGNED AND DATED WRITTEN NOTICE
2 OF CANCELLATION BY REGISTERED OR CERTIFIED
3 MAIL, RETURN RECEIPT REQUESTED; OR

4 2. PERSONALLY DELIVER A SIGNED AND DATED
5 WRITTEN NOTICE OF CANCELLATION TO:

6 (Name of Contractor)

7 (Address of Contractor)

8 (Phone Number of Contractor)

9
10 If you cancel this contract within the three-day period, you
11 are entitled to a full refund of your money. Refunds must be
12 made within 30 days of the contractor's receipt of the
13 cancellation notice."

14
15 17. The director, pursuant to the provisions of the "Administrative
16 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall
17 promulgate rules and regulations to effectuate the purposes of this act.

18
19 18. This act shall take effect on the first day of the seventh month
20 next following enactment, except that section 17 shall take effect
21 immediately.

22
23
24 STATEMENT

25
26 This bill would require home improvement contractors to register
27 with the Director of the Division of Consumer Affairs in the
28 Department of Law and Public Safety before being authorized to
29 perform home improvements on residential or non-commercial
30 property. The director may refuse to issue, or suspend or revoke any
31 registration of any person who violates State criminal code or similar
32 laws in another jurisdiction. The registration number would have to
33 be prominently displayed within a home improvement contractor's
34 place of business, on all commercial vehicles leased or owned by the
35 contractor, on all business documents and correspondence, and in all
36 advertisements distributed within the State, whether printed or not.

37 The bill requires every registered contractor who is engaged in
38 home improvements to secure, maintain and file with the director
39 proof of a certificate of commercial general liability insurance in a
40 minimum amount of \$500,000 per occurrence. Any home
41 improvement contractor with a net worth of more than \$50,000,000
42 is not required to satisfy this security requirement.

43 The bill requires the director to conduct a public education
44 campaign to inform home improvement contractors and consumers of
45 its provisions. Municipalities are prohibited from issuing a
46 construction permit for any home improvement to any home

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- 1 improvement contractor who is not registered with the division. The
- 2 bill allows consumers to cancel a home improvement contract within
- 3 three business days.