

# ASSEMBLY, No. 4519

## STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED NOVEMBER 25, 2013

**Sponsored by:**

**Assemblyman DAVID P. RIBLE**

**District 30 (Monmouth and Ocean)**

**SYNOPSIS**

Makes revisions to the “Contractors’ Registration Act.”

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning regulation of home improvement contractors  
2 and amending and supplementing P.L.2004, c.16.

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

6  
7 1. Section 2 of P.L.2004, c.16 (C.56:8-137) is amended to read  
8 as follows:

9 2. As used in this act:

10 “Common interest community” means real estate, including, but  
11 not limited to, condominiums and cooperatives, with respect to  
12 which a person, by virtue of his ownership of a unit, is obligated to  
13 pay for real estate taxes, insurance premiums, maintenance, or  
14 improvement of other real estate described in the declaration.  
15 Ownership of a unit does not include holding a leasehold interest of  
16 less than 20 years in a unit, including renewal options.

17 "Contractor" means a person engaged in the business of making  
18 or selling home improvements and includes a corporation,  
19 partnership, association and any other form of business organization  
20 or entity, and its officers, representatives, agents and employees. A  
21 person who makes a home improvement without compensation shall  
22 not be deemed to be a contractor with respect to that home  
23 improvement.

24 "Director" means the Director of the Division of Consumer  
25 Affairs in the Department of Law and Public Safety.

26 "Division" means the Division of Consumer Affairs in the  
27 Department of Law and Public Safety.

28 “Full-time student” means an individual who was matriculated as  
29 a full-time student in a high school or an accredited college,  
30 technical school, or university for the immediately preceding  
31 academic semester and who will also be enrolled as a full-time  
32 student for the next academic semester, in the same or a similar  
33 school or accredited college, technical school, or university.

34 "Home improvement" means the remodeling, altering,  
35 renovating, repairing, restoring, modernizing, moving, demolishing,  
36 installing in, or otherwise improving or modifying of the whole or  
37 any part of any residential **【or non-commercial】** property. Home  
38 improvement shall also include insulation installation **【,** and the  
39 conversion of existing commercial structures into residential or  
40 non-commercial property**】**.

41 "Home improvement contract" means an oral or written  
42 agreement for the performance of a home improvement between a  
43 contractor and an owner, tenant or lessee, of a residential **【or**  
44 **noncommercial】** property, and includes all agreements under which

**EXPLANATION** – Matter enclosed in bold-faced brackets **【thus】** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 the contractor is to perform labor or render services for home  
2 improvements, or furnish materials in connection therewith.

3 "Residential **【or non-commercial】** property" means any occupied  
4 or previously occupied single-unit or owner-occupied multi-unit  
5 structure of not more than six units used in whole or in part as a  
6 place of residence, and all structures appurtenant thereto, and any  
7 portion of the lot or site on which the structure is situated which is  
8 devoted to the residential use of the structure. Residential property  
9 includes an owner-occupied single dwelling unit within a multi-unit  
10 common interest community.

11 "Responsible supervisor" means the individual designated by an  
12 applicant or registered contractor to be in charge at the contractor's  
13 job sites as required by subsection g. of section 6 of P.L.2004, c.16  
14 (C.56:8-141).

15 "Substantial interest" means an interest as director, officer or  
16 partner or an economic interest of 10 percent or more in a home  
17 improvement contractor or any parent, subsidiary, or affiliate  
18 thereof.

19 (cf: P.L.2004, c.16, s.2)

20  
21 2. Section 3 of P.L.2004, c.16 (C.56:8-138) is amended to read  
22 as follows:

23 3. a. **【On or after December 31, 2005, no】** No person shall  
24 offer to perform, or engage, or attempt to engage in the business of  
25 making or selling home improvements unless registered with the  
26 Division of Consumer Affairs in accordance with the provisions of  
27 this act.

28 b. Every contractor shall **【annually】** register with the director  
29 every two years. Prior to the end of each renewal period, the  
30 director shall send out renewal notices to all registered contractors.  
31 Registrants shall submit a completed renewal form and the renewal  
32 fee established by the director by regulation. A registration shall  
33 expire on the last day of the second year of the biennial registration  
34 period unless renewed. Application for registration shall be through  
35 an online registration process established by the division or on a  
36 form provided by the division , and shall be accompanied by a  
37 reasonable fee, set by the director in an amount sufficient to defray  
38 the division's expenses incurred in administering and enforcing this  
39 act.

40 c. Every contractor required to register under this act shall file  
41 an amended registration within 20 days after any change in the  
42 information required to be included thereon. No fee shall be  
43 required for the filing of an amendment.

44 d. Contractors not otherwise exempt under section 5 of  
45 P.L.2004, c.16 (C.56:8-140) who enter into a home improvement  
46 contract or contracts with any consumer in a registration period that  
47 obligates the consumer to pay, in the aggregate, an amount less than  
48 \$500 in a registration period, or such other amount as the director

1 may determine by regulation, shall be subject to the registration  
2 requirements of P.L.2004, c.16 (C.56:8-136 et seq.), but shall not be  
3 subject to the bonding requirements of section 7 of P.L.2004, c.16  
4 (C.56:8-142). Those contractors shall be required to maintain a  
5 minimum amount of commercial general liability insurance that  
6 shall be set by the director by regulation and may be less than  
7 \$500,000 per occurrence. The contract prices for contracts entered  
8 into by a contractor with a consumer for related, connected, or  
9 contemporaneous work shall be aggregated.

10 (cf: P.L.2004, c.155, s.1)

11  
12 3. Section 5 of P.L.2004, c.16 (C.56:8-140) is amended to read  
13 as follows:

14 5. The provisions of **【this act】** sections 3 (C.56:8-138), 4  
15 (C.56:8-139), 6 through 9 (C.56:8-141-144), and paragraphs (2) and  
16 (3) of subsection a. of section 16 (C.56:8-151) of P.L.2004, c.16  
17 regarding registration, insurance, and bonding as a home  
18 improvement contractor shall not apply to:

19 a. Any person **【required to register pursuant to】** registered  
20 under "The New Home Warranty and Builders' Registration Act,"  
21 P.L.1977, c.467 (C.46:3B-1 et seq.), but only in connection with the  
22 building of a new home as defined in section 2 of P.L.1977, c.467  
23 (C.46:3B-2);

24 b. **【Any person performing a home improvement upon a**  
25 **residential or non-commercial property he owns, or that is owned**  
26 **by a member of his family, a bona fide charity, or other non-profit**  
27 **organization】** (Deleted by amendment, P.L.\_\_\_\_, c.\_\_\_\_) (pending  
28 before the Legislature as this bill);

29 c. Any person regulated by the State as an architect,  
30 professional engineer, landscape architect, land surveyor, electrical  
31 contractor, master plumber, HVACR contractor, or any other person  
32 in any other related profession requiring registration, certification,  
33 or licensure by the State, who is acting within the scope of practice  
34 of his profession;

35 d. Any person who is employed by a **【community association**  
36 **or cooperative corporation】** common interest community, while  
37 such person is acting within the scope of that employment;

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

39 f. Any person licensed under the provisions of section 16 of  
40 P.L.1960, c.41 (C.17:16C-77), who is selling a home repair contract  
41 as defined in section 1 of P.L.1960, c.41 (C.17:16C-62) but is not  
42 performing the work; **【and】**

43 g. Any home improvement retailer with a net worth of more  
44 than \$50,000,000, or employee of that retailer; and

45 h. Any contractor who is a full-time student, making or selling  
46 home improvements, provided that all of the employees of the  
47 contractor are also full-time students and that the contractor does

1 not reasonably expect to earn and does not in fact earn more than  
2 \$10,000 in annual net income as a contractor.

3 Any person exempted from the insurance or bonding  
4 requirements or the registration requirements of P.L.2004, c.16  
5 (C.56:8-136 et seq.) shall disclose in the home improvement  
6 contract the requirements of that act from which the person is  
7 exempt and to which the home improvement will not be subject.  
8 The disclosure shall comply in form and substance with  
9 requirements established by the director by regulation. Any person  
10 exempted from the insurance or bonding or registration  
11 requirements of this act shall be subject to all other requirements of  
12 this act.

13 (cf: P.L.2004, c.16, s.5)

14  
15 4. Section 6 of P.L.2004, c.16 (C.56:8-141) is amended to read  
16 as follows:

17 6. In addition to any other procedure, condition or information  
18 required by this act:

19 a. Every applicant shall file a disclosure statement with the  
20 director stating whether the applicant or any person with a  
21 substantial interest in the applicant has been convicted of any crime,  
22 which for the purposes of this act shall mean a violation of any of  
23 the following provisions of the "New Jersey Code of Criminal  
24 Justice," Title 2C of the New Jersey Statutes, or the equivalent  
25 under the laws of any other jurisdiction:

26 (1) Any crime of the first degree;

27 (2) Any crime which is a second or third degree crime and is a  
28 violation of chapter 20 or 21 of Title 2C of the New Jersey Statutes;  
29 or

30 (3) Any other crime which is a violation of N.J.S.2C:5-1, 2C:5-  
31 2, 2C:11-2 through 2C:11-4, 2C:12-1, 2C:12-3, 2C:13-1, section 1  
32 of P.L.1993, c.291 (C.2C:13-6), section 1 of P.L.2005, c.1 (2C:13-  
33 7), 2C:14-2, 2C:14-3, 2C:15-1, subsection a. or b. of 2C:17-1,  
34 subsection a. or b. of 2C:17-2, 2C:17-3, 2C:18-2, 2C:20-4, 2C:20-5,  
35 2C:20-7, 2C:20-9, 2C:21-2 through 2C:21-4, 2C:21-6, 2C:21-7,  
36 2C:21-12, 2C:21-14, 2C:21-15, or 2C:21-19, 2C:24-4, 2C:24-7,  
37 section 1 of P.L.1989, c.23 (C.2C:24-8), section 1 of P.L.1998,  
38 c.102 (C.2C:24-9), chapter 27 or 28 of Title 2C of the New Jersey  
39 Statutes, N.J.S.2C:30-2, 2C:30-3, 2C:35-5, 2C:35-10, 2C:37-1  
40 through 2C:37-4, or any other crime for which the person is  
41 required to register as a sex offender pursuant to P.L.1994, c.133  
42 (C.2C:7-1 et seq.) or the equivalent under the laws of any other  
43 jurisdiction or for which the person is sentenced to parole  
44 supervision for life.

45 The disclosure statement filed with the director shall state  
46 whether any employee of the applicant who has been designated as  
47 its responsible supervisor has been convicted of a crime in violation  
48 of any of the following provisions of the "New Jersey Code of

1 Criminal Justice,” Title 2C of the New Jersey Statutes, or the  
2 equivalent laws of any other jurisdiction: N.J.S.2C:5-1, 2C:5-2,  
3 2C:11-2 through 2C:11-4, 2C:12-1, 2C:12-3, 2C:13-1, section 1 of  
4 P.L.1993, c.291 (C.2C:13-6), 2C:14-2, 2C:15-1, subsection a. or b.  
5 of 2C:17-1, subsection a. or b. of 2C:17-2, 2C:18-2, 2C:24-4,  
6 2C:35-5, or 2C:35-10, or any other crime for which the person is  
7 required to register as a sex offender pursuant to P.L.1994, c.133  
8 (C.2C:7-1 et seq.) or the equivalent under the laws of any other  
9 jurisdiction or for which the person is sentenced to parole  
10 supervision for life.

11 b. The director may refuse to issue or may suspend or revoke  
12 any registration issued by him upon proof that the applicant or  
13 holder of the registration or a person with a substantial interest in  
14 the applicant or holder:

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

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

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

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

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

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

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

34 (8) **【Has】** Other than traffic violations, has violated or failed to  
35 comply with the provisions of any act or regulation administered ,  
36 or any order issued, by the director or by any other State agency or  
37 the equivalent provisions of any act, regulation, or order under the  
38 laws of any other jurisdiction;

39 (9) **【Is incapable, for medical or any other good cause, of**  
40 **discharging the functions of a licensee in a manner consistent with**  
41 **the public's health, safety and welfare】** (Deleted by amendment,  
42 P.L. , c. ) (pending before the Legislature as this bill).

43 c. **【An applicant whose registration is denied, suspended, or**  
44 **revoked pursuant to this section shall, upon a written request**  
45 **transmitted to the director within 30 calendar days of that action, be**  
46 **afforded an opportunity for a hearing in a manner provided for**

1 contested cases pursuant to the "Administrative Procedure Act,"  
2 P.L.1968, c.410 (C.52:14B-1 et seq.)】

3 (1) The director may refuse to issue or may revoke any  
4 registration issued by him upon proof that:

5 (a) the applicant;

6 (b) the holder of the registration; or

7 (c) a person with a substantial interest in the application or  
8 holder;

9 held a substantial interest in any other home improvement  
10 contractor at the time that the other home improvement contractor  
11 was disqualified or was subject to disqualification from registration  
12 under paragraphs (1) through (8) of subsection b. of this section.

13 (2) The director may refuse to issue or may suspend or revoke  
14 any registration issued by him upon proof that the contractor's  
15 responsible supervisor has been convicted of any crime for which  
16 disclosure is required for responsible supervisors pursuant to  
17 subsection a. of this section, provided that no applicant or registered  
18 contractor shall be disqualified from registration or shall have its  
19 registration revoked for failure to disclose any responsible  
20 supervisor's conviction if the applicant or holder of a registration  
21 affirmatively demonstrates to the director clear and convincing  
22 evidence of the responsible supervisor's rehabilitation in  
23 consideration of the factors set out in subsection f. of this section.

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

27 e. If any of the information required to be included in the  
28 disclosure statement changes, or if additional information should be  
29 added after the filing of the statement, the applicant shall provide  
30 that information to the director, in writing, within 30 calendar days  
31 of the change or addition.

32 f. Notwithstanding the provisions of 【paragraph (6) of】  
33 subsection b. of this section, no 【individual】 applicant or holder of  
34 a registration shall be disqualified from registration or shall have  
35 registration revoked on the basis of any conviction disclosed if the  
36 individual with the disqualifying conviction has affirmatively  
37 demonstrated to the director clear and convincing evidence of the  
38 individual's rehabilitation. In determining whether an individual  
39 has affirmatively demonstrated rehabilitation, the following factors  
40 shall be considered:

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

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

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

45 (4) The date of the offense;

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

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

1 (7) Any social conditions which may have contributed to the  
2 offense; and

3 (8) Any evidence of rehabilitation, including good conduct in  
4 prison or in the community, counseling or psychiatric treatment  
5 received, acquisition of additional academic or vocational  
6 schooling, successful participation in correctional work-release  
7 programs, or the recommendation of persons who have had the  
8 individual under their supervision.

9 g. Every applicant and every registered contractor shall  
10 designate and maintain a responsible supervisor who may, but need  
11 not, be a person with a substantial interest in the applicant or  
12 contractor, and shall file with the director the name, residence,  
13 address, and telephone number of the responsible supervisor. The  
14 responsible supervisor shall be in charge at the contractor's job sites  
15 and shall ensure that the work and any employees comply with  
16 applicable laws and regulations.

17 (cf: P.L.2004, c.16, s.6)

18

19 5. Section 7 of P.L.2004, c.16 (C.56:8-142) is amended to read  
20 as follows:

21 7. a. **【On or after December 31, 2005, every】** Every registered  
22 contractor who is engaged in home improvements shall secure **【,】**  
23 and maintain, and file with the director **【proof of a certificate】**  
24 evidence of commercial general liability insurance in a minimum  
25 amount of \$500,000 per occurrence, issued by an insurance carrier  
26 authorized by the Commissioner of Banking and Insurance to  
27 conduct business in this State, and file with the director a certificate  
28 issued by the insurance carrier or its agent evidencing that such  
29 insurance is in full force and effect.

30 b. (1) An insurance carrier that has issued a commercial  
31 general liability insurance policy to a contractor for the purpose of  
32 complying with this act shall give notice to the director, by regular  
33 United States mail, electronic mail, or facsimile transmission, of its  
34 intention to cancel or not renew that policy at least 10 business days  
35 prior to cancellation or non-renewal.

36 (2) Every registered contractor engaged in home improvements  
37 whose commercial general liability insurance policy is cancelled or  
38 **【nonrenewed】** not renewed shall submit to the director a copy of  
39 the certificate of commercial general liability insurance for a new or  
40 replacement policy which meets the requirements of subsection a.  
41 of this section before the former policy is no longer effective.

42 c. Every registered contractor who is engaged in home  
43 improvement shall maintain in effect during the entire period of the  
44 registration a bond, in the form prescribed by the director, issued by  
45 one or more sureties authorized to transact business in this State.

46 d. The penal sum of the bond for an applicant who is applying  
47 for a registration or renewal of a registration shall be \$25,000 or  
48 such other amount as the director may determine by regulation.



1     e. The contractor shall, from time to time, to the extent that  
2 claims are paid, promptly replenish the bond maintained with the  
3 director to the amount required under subsection d. of this section  
4 or obtain a new bond that meets the requirements of subsection d. of  
5 this section. The director may suspend a contractor's registration  
6 until the contractor provides the director with valid proof that the  
7 bond has been replenished or a new bond has been obtained. As a  
8 condition of ending the suspension, the director may require a  
9 contractor requesting reinstatement to file a bond in a penal sum up  
10 to two times the amount specified in subsection d. of this section, in  
11 accordance with regulations to be adopted by the director.

12     f. The bond required under this section shall be filed or  
13 deposited with the director and shall be executed to the State of  
14 New Jersey for the benefit of consumers as provided in subsections  
15 g. and k. of this section.

16     g. A consumer may claim against the bond for actual losses  
17 incurred by the consumer as a result of conduct by a registered  
18 contractor in violation of P.L.1960, c.39 (C.56:8-1 et seq.)  
19 occurring during the term of the bond.

20     h. The bond shall not be payable for treble damages in claims  
21 brought under P.L.1960, c.39 (C.56:8-1 et seq.).

22     i. A consumer making a claim against a bond required under  
23 this section shall simultaneously notify the surety and the director  
24 of the amount and nature of the claim.

25     j. If a consumer's claim is not resolved by the contractor or the  
26 surety within 60 days after the consumer notifies the surety and the  
27 director of the consumer's claim, the consumer may bring a suit or  
28 action on the bond against the surety in any State court having  
29 jurisdiction. A suit or action against the surety shall be brought by  
30 the consumer within two years after the expiration of the  
31 registration period during which the conduct giving rise to the claim  
32 occurred.

33     k. A bond required under this section shall respond to a claim  
34 made by the director for any amounts awarded to a consumer in a  
35 binding arbitration proceeding conducted pursuant to a consent  
36 judgment or consent order obtained by the director arising out of  
37 conduct of the contractor in violation of P.L.1960, c.39 (C.56:8-1 et  
38 seq.) occurring during the term of the bond, and not paid by the  
39 contractor. The director shall notify the surety of the consent order  
40 or consent judgment entered against the contractor.

41     l. The aggregate liability of the surety for all breaches of the  
42 conditions of the bond required under this section shall not exceed  
43 the amount of the bond.

44     m. Where there is more than one claim pending against a  
45 contractor in an aggregate amount equal to 50 percent or more of  
46 the amount required by subsection d. of section 7 of P.L.2004, c.16  
47 (C.56:8-142), the surety shall notify the director and shall not pay  
48 any amount under the bond without authorization from the director.

1 If the director determines that there is a substantial likelihood that  
2 the aggregate amount of claims against a bond will exceed the face  
3 amount of the bond, the director may apportion the proceeds of the  
4 bond among the claimants in an equitable manner. The director may  
5 suspend a contractor's registration until any judgment or admitted or  
6 proven claim in excess of the amount of the bond is satisfied.

7 n. Every bond required under this section shall provide that  
8 cancellation or nonrenewal of the bond shall not be effective unless  
9 and until at least 30 days' notice of intention to cancel or not renew  
10 has been received in writing by the director from the issuer.

11 (cf: P.L.2004, c.155, s.3)

12  
13 6. Section 11 of P.L.2004, c.16 (C.56:8-146) is amended to  
14 read as follows:

15 11. a. It is an unlawful practice and a violation of P.L.1960,  
16 c.39 (C.56:8-1 et seq.) **to violate any provision of this act** for a  
17 contractor, including a contractor exempt from the registration  
18 requirements under section 5 of P.L.2004, c.16 (C.56:8-140), to hire  
19 a subcontractor, or obtain or contract for the services of an  
20 independent contractor, that is not registered under P.L.2004, c.16  
21 (C.56:8-136 et seq.), unless the subcontractor or independent  
22 contractor is exempt from the registration requirements of that act.

23 A contractor who violates any provision of P.L.2004, c.16  
24 (C.56:8-136 et seq.) shall be liable for restitution to a consumer  
25 who is damaged or suffers any monetary loss as a result of such  
26 violation.

27 b. In addition to any other penalty provided by law, a **person**  
28 contractor who knowingly violates any of the provisions of this act  
29 is guilty of a crime of the fourth degree.

30 (P.L.2004, c.16, s.11)

31  
32 7. Section 12 of P.L.2004, c.16 (C.56:8-147) is amended to  
33 read as follows:

34 12. a. This act shall supersede any municipal ordinance or  
35 regulation that provides for the licensing or registration of home  
36 improvement contractors or for the protection of homeowners by  
37 bonds or warranties required to be provided by home improvement  
38 contractors, exclusive of those required by water, sewer, utility, or  
39 land use ordinances or regulations.

40 b. No municipality shall issue a construction permit for any  
41 home improvement if any part of the home improvement is to be  
42 performed by any contractor who is required to but is not registered  
43 pursuant to the provisions of this act.

44 c. A municipality may issue a construction permit for a home  
45 improvement only to:

46 (1) a contractor who is performing the home improvement and  
47 who is registered under P.L.2004, c.16 (C.56:8-136 et seq.);

1       (2) a person who is performing the home improvement and is  
2 not required to be registered under P.L.2004, c.16 (C.56:8-136 et  
3 seq.); or

4       (3) the owner of the property, provided that the person who is  
5 performing the home improvement is the owner of the property or is  
6 eligible to obtain a construction permit pursuant to paragraph (1) or  
7 (2) of this subsection.

8       d. It is an unlawful practice and a violation of P.L.1960, c.39  
9 (C.56:8-1 et seq.) to induce a consumer to obtain a permit for work  
10 to be performed by an unregistered person who is required to be  
11 registered under P.L.2004, c.16 (C.56:8-136 et seq.).

12       e. A contractor shall be liable for any fines or penalties  
13 imposed in connection with a home improvement that the contractor  
14 is making as a result of any failure to obtain necessary construction  
15 permits.

16       f. A contractor shall notify the municipal construction officer,  
17 tax assessor, or other appropriate official in writing of the  
18 completion of home improvement work for which a construction  
19 permit was required to be issued within 30 days of completion of  
20 the work.

21 (cf: P.L.2004, c.16, s.12)

22  
23       8. Section 16 of P.L.2004, c.16 (C.56:8-151) is amended to  
24 read as follows:

25       16. a. **【On or after December 31, 2005, every】** Every home  
26 improvement contract for a purchase price in excess of \$500, and  
27 all changes in the terms and conditions of the contract, shall be in  
28 writing. The contract shall be signed by all parties thereto and shall  
29 not contain any blank spaces for information including, but not  
30 limited to, terms and conditions, to be added after the contract is  
31 signed by the consumer, and shall clearly and accurately set forth in  
32 legible form and in understandable language all terms and  
33 conditions of the contract, including but not limited to:

34       (1) The legal name, business address, street address and, if  
35 different, mailing address, and registration number of the  
36 contractor;

37       (2) **【A】** If applicable, a copy of the certificate of commercial  
38 general liability insurance required of a contractor pursuant to  
39 section 7 of this act and the telephone number of the insurance  
40 company issuing the certificate; **【and】**

41       (3) If applicable, a copy of the certificate of surety bond issued  
42 by the surety in favor of the State of New Jersey under section 7 of  
43 P.L.2004, c.16 (C.56:8-142) and the street address and, if different,  
44 the mailing address of the surety at which a claim may be filed, and  
45 the telephone number of the surety; and

46       (4) The total price or other consideration to be paid by the  
47 owner, including the finance charges , and any fees for permits  
48 necessary to complete the home improvements.

1       b. [On or after December 31, 2005, a home improvement  
2 contract may be cancelled by a consumer for any reason at any time  
3 before midnight of the third business day after the consumer  
4 receives a copy of it. In order to cancel a contract the consumer  
5 shall notify the contractor of the cancellation in writing, by  
6 registered or certified mail, return receipt requested, or by personal  
7 delivery, to the address specified in the contract. All moneys paid  
8 pursuant to the cancelled contract shall be fully refunded within 30  
9 days of receipt of the notice of cancellation. If the consumer has  
10 executed any credit or loan agreement through the contractor to pay  
11 all or part of the contract, the agreement or note shall be cancelled  
12 without penalty to the consumer and written notice of that  
13 cancellation shall be mailed to the consumer within 30 days of  
14 receipt of the notice of cancellation. The contract shall contain a  
15 conspicuous notice printed in at least 10-point bold-faced type as  
16 follows:

17 "NOTICE TO CONSUMER

18       YOU MAY CANCEL THIS CONTRACT AT ANY TIME  
19 BEFORE MIDNIGHT OF THE THIRD BUSINESS DAY AFTER  
20 RECEIVING A COPY OF THIS CONTRACT. IF YOU WISH TO  
21 CANCEL THIS CONTRACT, YOU MUST EITHER:

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

25       2. PERSONALLY DELIVER A SIGNED AND DATED  
26 WRITTEN NOTICE OF CANCELLATION TO:

27 (Name of Contractor)

28 (Address of Contractor)

29 (Phone Number of Contractor)

30       If you cancel this contract within the three-day period, you are  
31 entitled to a full refund of your money. Refunds must be made  
32 within 30 days of the contractor's receipt of the cancellation  
33 notice." ]

34       The contract shall include the following notice in 10-point bold  
35 type or larger, directly above the space provided for the signature of  
36 the consumer:

37 "NOTICE TO CONSUMER

38 Do not sign this contract if any of the spaces for information have  
39 been left blank. You are entitled to a copy of the contract at the time  
40 you sign. Keep it to protect your legal rights.

41 Do not sign any completion certificate or agreement stating that you  
42 are satisfied with the entire project before this project is complete.  
43 Home improvement contractors are prohibited by law from  
44 requesting or accepting a certificate of completion signed by the  
45 consumer prior to the actual completion of the work to be  
46 performed under the home improvement contract."

- 1     c. Any home improvement contract may be rescinded by the  
2 consumer, except as provided in subsection j. of this section, if the  
3 consumer:
- 4         (1) Furnishes to the contractor a notice of intent to rescind the  
5 home improvement contract by certified mail, return receipt  
6 requested, postmarked not later than 5:00 PM of the third business  
7 day following the day on which the home improvement contract is  
8 executed; and
- 9         (2) Gives up possession of any goods subject to such home  
10 improvement contract delivered to the consumer prior to receipt by  
11 the contractor of such notice of intent to rescind.
- 12     d. Within 10 business days after receipt of such notice of intent  
13 to rescind the home improvement contract, a contractor shall:
- 14         (1) Pick up, at his own expense, any goods subject to such  
15 contract delivered to the consumer prior to receipt by the contractor  
16 of such notice;
- 17         (2) Refund to the consumer all amounts of money paid by the  
18 consumer, less reasonable charges for any damages to such goods  
19 which occurred while in the possession of the consumer; and
- 20         (3) Redeliver to the consumer any goods traded-in to the  
21 contractor on account or of in contemplation of the home  
22 improvement contract, less any reasonable charges actually incurred  
23 in making the goods ready for sale.
- 24     e. Each home improvement contractor shall maintain a record  
25 of the receipt of any consumer's notice of intent to rescind a sale  
26 under P.L.2004, c.16 (C.56:8-136 et seq.) for at least 24 months  
27 after the current registration period for that contractor expires.
- 28     f. At the time of executing every home improvement contract  
29 subject to the provisions of P.L.2004, c.16 (C.56:8-136 et seq.), the  
30 contractor shall deliver to the consumer two copies of a receipt  
31 which clearly and conspicuously set forth:
- 32         (1) The home improvement contractor's name, street address or  
33 its place of business, and registration number;
- 34         (2) A description of the goods and services sold; and
- 35         (3) The amount of money paid by the consumer or the cash  
36 value of any goods delivered to the contractor at the time the home  
37 improvement contract was entered into.
- 38     g. The receipt required to be delivered to the consumer shall  
39 also clearly and conspicuously bear, in at least 10-point bold type,  
40 the following statement:
- 41         "NOTICE TO CONSUMER: YOU MAY RESCIND THIS SALE  
42 PROVIDED THAT YOU NOTIFY THE HOME IMPROVEMENT  
43 CONTRACTOR OF YOUR INTENT TO DO SO BY CERTIFIED  
44 MAIL, RETURN RECEIPT REQUESTED, POSTMARKED NOT  
45 LATER THAN 5:00 PM OF THE THIRD BUSINESS DAY  
46 FOLLOWING THE SALE. FAILURE TO EXERCISE THIS  
47 OPTION, HOWEVER, WILL NOT INTERFERE WITH ANY  
48 OTHER REMEDIES AGAINST THE HOME IMPROVEMENT

1 CONTRACTOR YOU MAY POSSESS. IF YOU WISH YOU  
2 MAY USE THIS PAGE AS NOTIFICATION BY WRITING "I  
3 HEREBY RESCIND" AND ADDING YOUR NAME AND  
4 ADDRESS. A DUPLICATE OF THIS RECEIPT IS PROVIDED  
5 BY THE HOME IMPROVEMENT CONTRACTOR FOR YOUR  
6 RECORDS."

7 h. Except as provided in subsection j. of this section, no receipt  
8 required to be delivered to the consumer shall contain, or be  
9 accompanied by any document which contains provisions by which  
10 the consumer waives his rights under this act.

11 i. A contractor who in the ordinary course of business  
12 regularly uses a language other than English in any advertising or  
13 other solicitation of consumers, or in any printed forms for use by  
14 consumers, or in any face-to-face negotiations with consumers shall  
15 deliver the two copies of the receipt to a consumer whose principal  
16 language is such other language, one in English and one in the other  
17 language.

18 j. A home improvement contract for home improvement work  
19 needed by the consumer to meet a bona fide emergency, where the  
20 contract with the contractor was initiated by the consumer, shall not  
21 be subject to the cancellation provisions of subsection d. of this  
22 section, if the consumer furnishes the contractor with a statement  
23 separate from the contract, in a form approved by the division,  
24 dated and signed by the consumer, describing the situation requiring  
25 immediate remedy and expressly acknowledging and waiving the  
26 right to cancel the contract within three business days.

27 (P.L.2004, c.155, s.4)

28  
29 9. (New section) a. There is established in the General Fund a  
30 non-lapsing fund to be known as the "Home Improvement  
31 Consumer Protection Fund" which shall be administered by the  
32 State Treasurer. The State Treasurer shall deposit into the "Home  
33 Improvement Consumer Protection Fund" all fees and penalties  
34 collected by the director pursuant to P.L.2004, c.16 (C.56:8-136 et  
35 seq.).

36 b. The Legislature shall annually appropriate monies from the  
37 fund to the division for the payment of the division's expenses  
38 incurred in administering and enforcing the "Contractors'  
39 Registration Act," P.L.2004, c.16 (C.56:8-136 et seq.).

40  
41 10. This act shall take effect 120 days after enactment, but the  
42 Division of Consumer Affairs may take such anticipatory acts in  
43 advance of that date as may be necessary for the timely  
44 implementation of this act upon its effective date.

## STATEMENT

This bill revises the “Contractors’ Registration Act,” P.L.2004, c.16 (C.56:8-136 et seq.) (“the act”), to strengthen the protections afforded New Jersey consumers who engage the services of home improvement contractors.

The bill requires an applicant for registration to disclose any person connected to a home improvement business who has a substantial interest in the entity or any parent, subsidiary, or affiliate of the entity. As defined in the bill, “substantial interest” means an interest as director, officer or partner or an economic interest of 10 percent or more in a home improvement contractor or any parent, subsidiary, or affiliate thereof.

The bill helps facilitate consumer restitution when a home improvement contractor provides substandard work or engages in misconduct. The bill clarifies the commercial general liability insurance provisions of the act. Under the bill, contractors would be required to maintain a surety bond in the amount of \$25,000, or such other amount as the director may determine by regulation.

The bill makes it a violation of the consumer fraud act for a contractor to fail to complete a home improvement in accordance with the contract, or for an exempt contractor to hire an unregistered contractor. The bill makes a contractor who violates the act liable for restitution to consumers.

The bill provides that a person who performs home improvement work without compensation is not required to register under the act. Under current law, an individual who performs home improvement contracting for a family member or non-profit entity is not required to register. This bill provides an exemption for work done without compensation, instead of providing an exemption for family members or non-profit entities.

The bill limits the scope of the act to residential property and eliminates non-commercial property from the scope of the act. Additionally, the bill eliminates from the scope of the act contracts between contractors and owners for converting existing commercial structures into residential property.

The bill provides for biennial registration instead of the annual registration provided for in current law, in order to ease administrative burdens on contractors and the division and to allow for a more efficient registration process.

Under the bill, contractors who perform only small home improvements of less than \$500 in aggregate cost are subject only to the registration and insurance requirements and not the bonding requirements. These contractors pose a small risk for consumers due to the small projects they perform, and eliminating the bond requirement will allow them to avoid unnecessary expenses, which are ultimately passed along to consumers. Additionally, the bill

1 exempts full-time students who perform home improvement work  
2 between semesters, which falls below a certain dollar threshold.

3 Under the bill, any person who is exempt from the act or parts of  
4 the act is required to disclose in the home improvement contract the  
5 requirements of the act from which the person is exempt. The bill  
6 also clarifies the enumerated classes of persons and situations in  
7 which certain contractors are exempt from the registration,  
8 insurance, and bonding requirements of the act.

9 The bill requires contractors to designate responsible supervisors  
10 to be responsible for employees performing work at job sites.  
11 Under current law, only owners, officers, and directors of home  
12 improvement contracting businesses must disclose convictions for  
13 disqualifying crimes, but, in many cases, it is an employee who is  
14 working in the consumer's home. While it may not be practical or  
15 fair to require background checks on every employee, the bill  
16 requires responsible supervisors to disclose any disqualifying  
17 crimes and to be in charge of the business's job sites. The bill also  
18 expands the list of disqualifying crimes to include crimes against  
19 children.

20 The bill also revises the act to:

- 21 - align the due process provisions of the act to require the  
22 director to afford "an opportunity to be heard" before  
23 refusing to issue or revoking a registration;
- 24 - clarify certain disqualifying conditions;
- 25 - prevent an unregistered person who is required to register  
26 from inducing a home owner into obtaining a permit for work  
27 to be performed by the unregistered person;
- 28 - align the three-day cooling off period provided in the act with  
29 the "Door-to-Door Home Repair Sales Act of 1968," and  
30 provides an exception to the three-day cancellation  
31 provisions for a bona fide emergency; and
- 32 - create a non-lapsing fund in the Department of the Treasury  
33 for the deposit of fees and penalties, consistent with the  
34 change to biennial registration.