

SENATE, No. 1195

STATE OF NEW JERSEY
217th LEGISLATURE

INTRODUCED FEBRUARY 8, 2016

Sponsored by:

Senator JENNIFER BECK

District 11 (Monmouth)

SYNOPSIS

Revises “Contractors’ Registration Act.”

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning home improvement contractors and amending
2 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 or
30 university for the immediately preceding academic semester and
31 will also be enrolled as a full-time student for the next academic
32 semester, in the same or a similar school or accredited college or
33 university.

34 "Home elevation" means any home improvement that involves
35 raising an entire residential or non-commercial structure to a higher
36 level above the ground.

37 "Home elevation contractor" means a contractor who engages in
38 the practice of home elevation.

39 "Home improvement" means the remodeling, altering,
40 renovating, repairing, restoring, modernizing, moving, demolishing,
41 installing in, or otherwise improving or modifying of the whole or
42 any part of any residential **【or non-commercial】** property. Home
43 improvement shall also include insulation installation, and home
44 elevation **【**, and the conversion of existing commercial structures
45 into residential or non-commercial property**】**.

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 "Home improvement contract" means an oral or written
2 agreement for the performance of a home improvement between a
3 contractor and an owner, tenant or lessee, of a residential **【or**
4 **noncommercial】** property, and includes all agreements under which
5 the contractor is to perform labor or render services for home
6 improvements, or furnish materials in connection therewith.

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

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

19 "Substantial interest" means an interest as director, officer or
20 partner or an economic interest of 10 percent or more in a home
21 improvement contractor or any parent, subsidiary, or affiliate
22 thereof.

23 (cf: P.L.2014, c.34, s.3)

24
25 2. Section 3 of P.L.2004, c.16 (C.56:8-138) is amended to read
26 as follows:

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

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

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

47 d. Contractors not otherwise exempt under section 5 of
48 P.L.2004, c.16 (C.56:8-140) who enter into a home improvement

1 contract or contracts with any consumer in a registration period that
2 obligates the consumer to pay, in the aggregate, an amount less than
3 \$500 in a registration period, or such other amount as the director
4 may determine by regulation, shall be subject to the registration
5 requirements of P.L.2004, c.16 (C.56:8-136 et seq.), but shall not be
6 subject to the bonding requirements of section 7 of P.L.2004, c.16
7 (C.56:8-142). Those contractors shall be required to maintain a
8 minimum amount of commercial general liability insurance that
9 shall be set by the director by regulation and may be less than
10 \$500,000 per occurrence. The contract prices for contracts entered
11 into by a contractor with a consumer for related, connected, or
12 contemporaneous work shall be aggregated.

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

14
15 3. Section 5 of P.L.2004, c.16 (C.56:8-140) is amended to read
16 as follows:

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

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

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

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

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

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

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

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

1 h. Any contractor who is a full-time student, making or selling
2 home improvements, provided that all of the employees of the
3 contractor are also full-time students and that the contractor does
4 not reasonably expect to earn and does not in fact earn more than
5 \$15,000 in annual net income as a contractor.

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

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

17
18 4. Section 6 of P.L.2004, c.16 (C.56:8-141) is amended to read
19 as follows:

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

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

29 (1) Any crime of the first degree;

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

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

1 The disclosure statement filed with the director shall state
2 whether any employee of the applicant who has been designated as
3 its responsible supervisor has been convicted of a crime in violation
4 of any of the following provisions of the “New Jersey Code of
5 Criminal Justice,” Title 2C of the New Jersey Statutes, or the
6 equivalent laws of any other jurisdiction: N.J.S.2C:5-1, 2C:5-2,
7 2C:11-2 through 2C:11-4, 2C:12-1, 2C:12-3, 2C:13-1, section 1 of
8 P.L.1993, c.291 (C.2C:13-6), 2C:14-2, 2C:15-1, subsection a. or b.
9 of 2C:17-1, subsection a. or b. of 2C:17-2, 2C:18-2, 2C:24-4,
10 2C:35-5, or 2C:35-10, or any other crime for which the person is
11 required to register as a sex offender pursuant to P.L.1994, c.133
12 (C.2C:7-1 et seq.) or the equivalent under the laws of any other
13 jurisdiction or for which the person is sentenced to parole
14 supervision for life.

15 b. The director may refuse to issue or may suspend or revoke
16 any registration issued by him upon proof that the applicant or
17 holder of the registration or a person with a substantial interest in
18 the applicant or holder:

19 (1) Has obtained a registration through fraud, deception or
20 misrepresentation;

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

23 (3) Has engaged in gross negligence, gross malpractice or gross
24 incompetence;

25 (4) Has engaged in repeated acts of negligence, malpractice or
26 incompetence;

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

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

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

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

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

47 c. **【An** applicant whose registration is denied, suspended, or
48 revoked pursuant to this section shall, upon a written request

transmitted to the director within 30 calendar days of that action, be afforded an opportunity for a hearing in a manner provided for contested cases pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)】

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

(a) the applicant;

(b) the holder of the registration; or

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

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

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

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

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

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

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

(2) The nature and seriousness of the offense;

(3) The circumstances under which the offense occurred;

(4) The date of the offense;

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

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

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

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

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

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

19

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

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

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

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

43 c. Every home elevation contractor engaged in performing
44 home elevations, in addition to the insurance required pursuant to
45 subsection a. of this section, shall secure and maintain cargo or
46 other insurance that specifically covers home elevation activities, in
47 a minimum amount of \$1,000,000 per occurrence to cover damages
48 or other losses to the homeowner, lessee, tenant or other party

1 resulting from a home elevation, except as otherwise provided in
2 this subsection. The Director of the Division of Consumer Affairs
3 in consultation with the Department of Banking and Insurance may
4 promulgate rules and regulations to implement this subsection,
5 which rules and regulations also may require that home elevation
6 contractors secure and maintain additional insurance of such kind
7 and in such amounts as the director may determine in consultation
8 with the Department of Banking and Insurance. In addition to or as
9 an alternative to the insurance required by this subsection, the
10 director may also require the posting of a bond in favor of the
11 owner, lessee, tenant or other party to the home improvement
12 contract for home elevation. Every bond and insurance policy
13 required to be maintained under this subsection shall provide that
14 the issuer of that bond or policy shall give the director written
15 notice of cancellation or non-renewal of the bond or policy within
16 10 days of the cancellation or non-renewal.

17 d. A home elevation contractor, prior to entering into an
18 agreement to perform a home elevation, shall provide proof of
19 insurance to the homeowner including the issuing insurer, policy
20 number, type, and amount of insurance coverage maintained by the
21 contractor in accordance with this section.

22 e. Every registered contractor who is engaged in home
23 improvement shall maintain in effect during the entire period of the
24 registration a bond, in the form prescribed by the director, issued by
25 one or more sureties authorized to transact business in this State.

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

29 g. The contractor shall, from time to time, to the extent that
30 claims are paid, promptly replenish the bond maintained with the
31 director to the amount required under subsection f. of this section or
32 obtain a new bond that meets the requirements of subsection f. of
33 this section. The director may suspend a contractor's registration
34 until the contractor provides the director with valid proof that the
35 bond has been replenished or a new bond has been obtained. As a
36 condition of ending the suspension, the director may require a
37 contractor requesting reinstatement to file a bond in a penal sum up
38 to two times the amount specified in subsection f. of this section, in
39 accordance with regulations to be adopted by the director.

40 h. The bond required under this section shall be filed or
41 deposited with the director and shall be executed to the State of
42 New Jersey for the benefit of consumers as provided in subsections
43 i. and m. of this section.

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

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

3 k. A consumer making a claim against a bond required under
4 this section shall simultaneously notify the surety and the director
5 of the amount and nature of the claim.

6 l. If a consumer's claim is not resolved by the contractor or the
7 surety within 60 days after the consumer notifies the surety and the
8 director of the consumer's claim, the consumer may bring a suit or
9 action on the bond against the surety in any State court having
10 jurisdiction. A suit or action against the surety must be brought by
11 the consumer within two years after the expiration of the
12 registration period during which the conduct giving rise to the claim
13 occurred.

14 m. A bond required under this section shall respond to a claim
15 made by the director for any amounts awarded to a consumer in a
16 binding arbitration proceeding conducted pursuant to a consent
17 judgment or consent order obtained by the director arising out of
18 conduct of the contractor in violation of P.L.1960, c.39 (C.56:8-1 et
19 seq.) occurring during the term of the bond, and not paid by the
20 contractor. The director shall notify the surety of the consent order
21 or consent judgment entered against the contractor.

22 n. The aggregate liability of the surety for all breaches of the
23 conditions of the bond required under this section shall not exceed
24 the amount of the bond.

25 o. Where there is more than one claim pending against a
26 contractor in an aggregate amount equal to 50 percent or more of
27 the amount required by subsection f. of section 7 of P.L.2004, c.16
28 (C.56:8-142), the surety shall notify the director and shall not pay
29 any amount under the bond without authorization from the director.
30 If the director determines that there is a substantial likelihood that
31 the aggregate amount of claims against a bond will exceed the face
32 amount of the bond, the director may apportion the proceeds of the
33 bond among the claimants in an equitable manner. The director may
34 suspend a contractor's registration until any judgment or admitted or
35 proven claim in excess of the amount of the bond is satisfied.

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

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

41
42 6. Section 11 of P.L.2004, c.16 (C.56:8-146) is amended to
43 read as follows:

44 11. a. It is an unlawful practice and a violation of P.L.1960,
45 c.39 (C.56:8-1 et seq.) **【to violate any provision of this act】** for a
46 contractor, including a contractor exempt from the registration
47 requirements under section 5 of P.L.2004, c.16 (C.56:8-140), to hire
48 a subcontractor, or obtain or contract for the services of an

1 independent contractor, that is not registered under P.L.2004, c.16
2 (C.56:8-136 et seq.), unless the subcontractor or independent
3 contractor is exempt from the registration requirements of that act.

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

8 b. In addition to any other penalty provided by law, a **【person】**
9 contractor who knowingly violates any of the provisions of this act
10 is guilty of a crime of the fourth degree.
11 (P.L.2004, c.16, s.11)

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

15 12. a. This act shall supersede any municipal ordinance or
16 regulation that provides for the licensing or registration of home
17 improvement contractors or for the protection of homeowners by
18 bonds or warranties required to be provided by home improvement
19 contractors, exclusive of those required by water, sewer, utility, or
20 land use ordinances or regulations.

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

25 c. A municipality may issue a construction permit for a home
26 improvement only to:

27 (1) a contractor who is performing the home improvement and
28 who is registered under this act;

29 (2) a person who is performing the home improvement and is
30 not required to be registered under this act; or

31 (3) the owner of the property, provided that the person who is
32 performing the home improvement is the owner of the property or is
33 eligible to obtain a construction permit pursuant to paragraph (1) or
34 (2) of this subsection.

35 d. It is an unlawful practice and a violation of P.L.1960, c.39
36 (C.56:8-1 et seq.) to induce a consumer to obtain a permit for work
37 to be performed by an unregistered person who is required to be
38 registered under this act.

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

43 f. A contractor shall notify the municipal construction officer,
44 tax assessor, or other appropriate official in writing of the
45 completion of home improvement work for which a construction
46 permit was required to be issued within 30 days of completion of
47 the work.

48 (cf: P.L.2014, c.34, s.4)

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

3 16. a. **【On or after December 31, 2005, every】** Every home
4 improvement contract for a purchase price in excess of \$500, and
5 all changes in the terms and conditions of the contract, shall be in
6 writing. The contract shall be signed by all parties thereto and shall
7 not contain any blank spaces for information including, but not
8 limited to, terms and conditions, to be added after the contract is
9 signed by the consumer, and shall clearly and accurately set forth in
10 legible form and in understandable language all terms and
11 conditions of the contract, including but not limited to:

12 (1) The legal name, business address, street address and, if
13 different, mailing address, and registration number of the
14 contractor;

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

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

24 (4) The total price or other consideration to be paid by the
25 owner, including the finance charges.

26 b. **【On or after December 31, 2005, a home improvement**
27 **contract may be cancelled by a consumer for any reason at any time**
28 **before midnight of the third business day after the consumer**
29 **receives a copy of it. In order to cancel a contract the consumer**
30 **shall notify the contractor of the cancellation in writing, by**
31 **registered or certified mail, return receipt requested, or by personal**
32 **delivery, to the address specified in the contract. All moneys paid**
33 **pursuant to the cancelled contract shall be fully refunded within 30**
34 **days of receipt of the notice of cancellation. If the consumer has**
35 **executed any credit or loan agreement through the contractor to pay**
36 **all or part of the contract, the agreement or note shall be cancelled**
37 **without penalty to the consumer and written notice of that**
38 **cancellation shall be mailed to the consumer within 30 days of**
39 **receipt of the notice of cancellation. The contract shall contain a**
40 **conspicuous notice printed in at least 10-point bold-faced type as**
41 **follows:**

42

43 "NOTICE TO CONSUMER

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

1 1. SEND A SIGNED AND DATED WRITTEN NOTICE OF
2 CANCELLATION BY REGISTERED OR CERTIFIED MAIL,
3 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 If you cancel this contract within the three-day period, you are
10 entitled to a full refund of your money. Refunds must be made
11 within 30 days of the contractor's receipt of the cancellation
12 notice."】

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

16 "NOTICE TO CONSUMER

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

20 Do not sign any completion certificate or agreement stating that you
21 are satisfied with the entire project before this project is complete.
22 Home improvement contractors are prohibited by law from
23 requesting or accepting a certificate of completion signed by the
24 consumer prior to the actual completion of the work to be
25 performed under the home improvement contract."

26 c. Any home improvement contract may be rescinded by the
27 consumer, except as provided in subsection j. of this section, if the
28 consumer:

29 (1) Furnishes to the contractor a notice of intent to rescind the
30 home improvement contract by certified mail, return receipt
31 requested, postmarked not later than 5:00 PM of the third business
32 day following the day on which the home improvement contract is
33 executed; and

34 (2) Gives up possession of any goods subject to such home
35 improvement contract delivered to the consumer prior to receipt by
36 the contractor of such notice of intent to rescind.

37 d. Within 10 business days after receipt of such notice of intent
38 to rescind the home improvement contract, a contractor shall:

39 (1) Pick up, at his own expense, any goods subject to such
40 contract delivered to the consumer prior to receipt by the contractor
41 of such notice;

42 (2) Refund to the consumer all amounts of money paid by the
43 consumer, less reasonable charges for any damages to such goods
44 which occurred while in the possession of the consumer; and

45 (3) Redeliver to the consumer any goods traded-in to the
46 contractor on account or of in contemplation of the home
47 improvement contract, less any reasonable charges actually incurred
48 in making the goods ready for sale.

1 e. Each home improvement contractor shall maintain a record
2 of the receipt of any consumer's notice of intent to rescind a sale
3 under this act for at least 18 months after the receipt of such notice
4 of intent to rescind.

5 f. At the time of executing every home improvement contract
6 subject to the provisions of this act, the contractor shall deliver to
7 the consumer two copies of a receipt which clearly and
8 conspicuously set forth:

9 (1) The home improvement contractor's name, street address or
10 its place of business, and registration number;

11 (2) A description of the goods and services sold; and

12 (3) The amount of money paid by the consumer or the cash
13 value of any goods delivered to the contractor at the time the home
14 improvement contract was entered into.

15 g. The receipt required to be delivered to the consumer shall
16 also clearly and conspicuously bear, in at least 10-point bold type,
17 the following statement:

18 "NOTICE TO CONSUMER: YOU MAY RESCIND THIS SALE
19 PROVIDED THAT YOU NOTIFY THE HOME IMPROVEMENT
20 CONTRACTOR OF YOUR INTENT TO DO SO BY CERTIFIED
21 MAIL, RETURN RECEIPT REQUESTED, POSTMARKED NOT
22 LATER THAN 5:00 PM OF THE THIRD BUSINESS DAY
23 FOLLOWING THE SALE. FAILURE TO EXERCISE THIS
24 OPTION, HOWEVER, WILL NOT INTERFERE WITH ANY
25 OTHER REMEDIES AGAINST THE HOME IMPROVEMENT
26 CONTRACTOR YOU MAY POSSESS. IF YOU WISH YOU
27 MAY USE THIS PAGE AS NOTIFICATION BY WRITING "I
28 HEREBY RESCIND" AND ADDING YOUR NAME AND
29 ADDRESS. A DUPLICATE OF THIS RECEIPT IS PROVIDED
30 BY THE HOME IMPROVEMENT CONTRACTOR FOR YOUR
31 RECORDS."

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

36 i. A contractor who in the ordinary course of business
37 regularly uses a language other than English in any advertising or
38 other solicitation of consumers, or in any printed forms for use by
39 consumers, or in any face-to-face negotiations with consumers shall
40 deliver the two copies of the receipt to a consumer whose principal
41 language is such other language, one in English and one in the other
42 language.

43 j. A home improvement contract for home improvement work
44 needed by the consumer to meet a bona fide emergency, where the
45 contract with the contractor was initiated by the consumer, shall not
46 be subject to the cancellation provisions of subsection d. of this
47 section, if the consumer furnishes the contractor with a statement
48 separate from the contract, in a form approved by the Division of

1 Consumer Affairs, dated and signed by the consumer, describing
2 the situation requiring immediate remedy and expressly
3 acknowledging and waiving the right to cancel the contract within
4 three business days.

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

6
7 9. (New section) a. There is established in the General Fund a
8 non-lapsing fund to be known as the "Home Improvement
9 Consumer Protection Fund" which shall be administered by the
10 State Treasurer. The State Treasurer shall deposit into the "Home
11 Improvement Consumer Protection Fund" all fees and penalties
12 collected by the director pursuant to this act.

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

17
18 10. This act shall take effect on January 1, 2017, but the
19 Division of Consumer Affairs may take such anticipatory acts in
20 advance of that date as may be necessary for the timely
21 implementation of this act upon its effective date.

22 23 24 STATEMENT

25
26 This bill revises the "Contractors' Registration Act," P.L.2004,
27 c.16 (C.56:8-136 et seq.) ("the act"), to strengthen the protections
28 afforded New Jersey consumers who engage the services of home
29 improvement contractors. The bill is based on the recommendations
30 of the Division of Consumer Affairs in the New Jersey Office of the
31 Attorney General, in the Department of Law and Public Safety,
32 which is the agency that enforces the provisions of the act under
33 current law.

34 Specifically, the bill requires an applicant for registration to
35 disclose any person connected to a home improvement business
36 who has a substantial interest in the entity or any parent, subsidiary,
37 or affiliate of the entity. This addresses an ongoing problem that
38 the division has encountered concerning individuals who
39 reincorporate and apply for registration as a new business entity in
40 order to circumvent disclosing to consumers the existence of
41 division disciplinary actions against their previously registered
42 home improvement contracting business. In such cases, the new
43 business entity is purportedly run by individuals who have no
44 connection to the previously disciplined company, but the owner of
45 a previously disciplined company has a significant financial interest
46 in the new business. The bill requires an applicant for registration
47 to disclose any person connected to a home improvement business
48 who has a substantial interest in the entity or any parent, subsidiary,

1 or affiliate of the entity. As defined in the bill, “substantial
2 interest” means an interest as director, officer or partner or an
3 economic interest of 10 percent or more in a home improvement
4 contractor or any parent, subsidiary, or affiliate thereof.

5 The bill helps facilitate consumer restitution when a home
6 improvement contractor provides substandard work or engages in
7 misconduct. The bill clarifies the commercial general liability
8 insurance provisions of the act. Many consumers and others were
9 of the mistaken belief that the requirement under current law for
10 commercial general liability insurance provided security for claims
11 against contractors; no such protection currently exists. Under the
12 bill, contractors would be required to maintain a surety bond in the
13 amount of \$25,000, or such other amount as the director may
14 determine by regulation.

15 The bill makes it a violation of the consumer fraud act for a
16 contractor to fail to complete a home improvement in accordance
17 with the contract, or for an exempt contractor to hire an
18 unregistered contractor. This provision seeks to address a recent
19 enforcement action, where the division sought to include a count
20 charging that a contractor engaged unregistered subcontractors,
21 which was successfully challenged by the contractor. The proposed
22 change to the law would provide the necessary statutory authority to
23 support the division’s position. The bill also makes a contractor
24 who violates the act liable for restitution to consumers.

25 The bill provides that a person who performs home improvement
26 work without compensation is not required to register under the act.
27 Under current law, an individual who performs home improvement
28 contracting for a family member or not-profit entity is not required
29 to register. The division has found some confusion exists as to who
30 qualifies as a “family member” for purposes of the exemption.
31 Additionally, a charity can currently be taken advantage of by a
32 contractor who takes a deposit and does not perform the contracted
33 work. The Division of Consumer Affairs believes removing the
34 current exemption, and providing an exemption for work done
35 without compensation will address these concerns.

36 The bill limits the scope of the act to residential property and
37 eliminates non-commercial property from the scope of the act.
38 Additionally, the bill eliminates from the scope of the act contracts
39 between contractors and owners for converting existing commercial
40 structures into residential property. The Division of Consumer
41 Affairs believes that the purpose of registration of home
42 improvement contractors is to protect consumers, and that an
43 individual or business that operates a multi-unit structure or
44 converts a commercial structure into residential property is better
45 able to take steps to protect itself from unscrupulous contractors.

46 The bill provides for biennial registration instead of the annual
47 registration provided for in current law, in order to ease

1 administrative burdens on contractors and the division and to allow
2 for a more efficient registration process.

3 Under the bill, contractors who perform only small home
4 improvements of less than \$500 in aggregate cost are subject only
5 to the registration and insurance requirements and not the bonding
6 requirements. These contractors pose a small risk for consumers
7 due to the small projects they perform, and eliminating the bond
8 requirement will allow them to avoid unnecessary expenses, which
9 are ultimately passed along to consumers. Additionally, the bill
10 exempts full-time students who perform home improvement work
11 between semesters, which falls below a certain dollar threshold.

12 Under the bill, any person who is exempt from the act or parts of
13 the act is required to disclose in the home improvement contract the
14 requirements of the act from which the person is exempt. The bill
15 also clarifies the enumerated classes of persons and situations in
16 which certain contractors are exempt from the registration,
17 insurance, and bonding requirements of the act.

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

29 The bill also revises the act to:

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

44 In order to permit contractors time to make arrangements to meet
45 the new requirements of the bill, the effective date of the bill is
46 January 1, 2014.

47 The Division of Consumer Affairs recommends the bill and
48 believes it will address a variety of problems and dramatically

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18

- 1 improve the New Jersey home improvement “Contractors’
- 2 Registration Act,” both from the perspective of the industry and the
- 3 division’s ability to regulate it and protect New Jersey consumers.