

ASSEMBLY, No. 384

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman EDWARD H. THOMSON

District 30 (Monmouth and Ocean)

SYNOPSIS

Makes revisions to the “Contractors’ Registration Act.”

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



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

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

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

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

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

18

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

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

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

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

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

1 contractor are also full-time students and that the contractor does
2 not reasonably expect to earn and does not in fact earn more than
3 \$10,000 in annual net income as a contractor.

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

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

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

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

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

27 (1) Any crime of the first degree;

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

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

46 The disclosure statement filed with the director shall state
47 whether any employee of the applicant who has been designated as

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

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

17 (1) Has obtained a registration through fraud, deception or
 18 misrepresentation;

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

21 (3) Has engaged in gross negligence, gross malpractice or gross
 22 incompetence;

23 (4) Has engaged in repeated acts of negligence, malpractice or
 24 incompetence;

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

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

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

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

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

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

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

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

7 (a) the applicant;

8 (b) the holder of the registration; or

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

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

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

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

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

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

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

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

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

- 1 (4) The date of the offense;
2 (5) The age of the individual when the offense was committed;
3 (6) Whether the offense was an isolated or repeated incident;
4 (7) Any social conditions which may have contributed to the
5 offense; and

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

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

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

21

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

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

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

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

45 c. Every registered contractor who is engaged in home
46 improvement shall maintain in effect during the entire period of the

- 1 registration a bond, in the form prescribed by the director, issued by
2 one or more sureties authorized to transact business in this State.
- 3 d. The penal sum of the bond for an applicant who is applying
4 for a registration or renewal of a registration shall be \$25,000 or
5 such other amount as the director may determine by regulation.
- 6 e. The contractor shall, from time to time, to the extent that
7 claims are paid, promptly replenish the bond maintained with the
8 director to the amount required under subsection d. of this section
9 or obtain a new bond that meets the requirements of subsection d. of
10 this section. The director may suspend a contractor's registration
11 until the contractor provides the director with valid proof that the
12 bond has been replenished or a new bond has been obtained. As a
13 condition of ending the suspension, the director may require a
14 contractor requesting reinstatement to file a bond in a penal sum up
15 to two times the amount specified in subsection d. of this section, in
16 accordance with regulations to be adopted by the director.
- 17 f. The bond required under this section shall be filed or
18 deposited with the director and shall be executed to the State of
19 New Jersey for the benefit of consumers as provided in subsections
20 g. and k. of this section.
- 21 g. A consumer may claim against the bond for actual losses
22 incurred by the consumer as a result of conduct by a registered
23 contractor in violation of P.L.1960, c.39 (C.56:8-1 et seq.)
24 occurring during the term of the bond.
- 25 h. The bond shall not be payable for treble damages in claims
26 brought under P.L.1960, c.39 (C.56:8-1 et seq.).
- 27 i. A consumer making a claim against a bond required under
28 this section shall simultaneously notify the surety and the director
29 of the amount and nature of the claim.
- 30 j. If a consumer's claim is not resolved by the contractor or the
31 surety within 60 days after the consumer notifies the surety and the
32 director of the consumer's claim, the consumer may bring a suit or
33 action on the bond against the surety in any State court having
34 jurisdiction. A suit or action against the surety shall be brought by
35 the consumer within two years after the expiration of the
36 registration period during which the conduct giving rise to the claim
37 occurred.
- 38 k. A bond required under this section shall respond to a claim
39 made by the director for any amounts awarded to a consumer in a
40 binding arbitration proceeding conducted pursuant to a consent
41 judgment or consent order obtained by the director arising out of
42 conduct of the contractor in violation of P.L.1960, c.39 (C.56:8-
43 1 et seq.) occurring during the term of the bond, and not paid by the
44 contractor. The director shall notify the surety of the consent order
45 or consent judgment entered against the contractor.

1 l. The aggregate liability of the surety for all breaches of the
2 conditions of the bond required under this section shall not exceed
3 the amount of the bond.

4 m. Where there is more than one claim pending against a
5 contractor in an aggregate amount equal to 50 percent or more of
6 the amount required by subsection d. of section 7 of P.L.2004, c.16
7 (C.56:8-142), the surety shall notify the director and shall not pay
8 any amount under the bond without authorization from the director.
9 If the director determines that there is a substantial likelihood that
10 the aggregate amount of claims against a bond will exceed the face
11 amount of the bond, the director may apportion the proceeds of the
12 bond among the claimants in an equitable manner. The director may
13 suspend a contractor's registration until any judgment or admitted or
14 proven claim in excess of the amount of the bond is satisfied.

15 n. Every bond required under this section shall provide that
16 cancellation or nonrenewal of the bond shall not be effective unless
17 and until at least 30 days' notice of intention to cancel or not renew
18 has been received in writing by the director from the issuer.
19 (cf: P.L.2004, c.155, s.3)

20
21 6. Section 11 of P.L.2004, c.16 (C.56:8-146) is amended to
22 read as follows:

23 11. a. It is an unlawful practice and a violation of P.L.1960,
24 c.39 (C.56:8-1 et seq.) **【to violate any provision of this act】** for a
25 contractor, including a contractor exempt from the registration
26 requirements under section 5 of P.L.2004, c.16 (C.56:8-140), to hire
27 a subcontractor, or obtain or contract for the services of an
28 independent contractor, that is not registered under P.L.2004, c.16
29 (C.56:8-136 et seq.), unless the subcontractor or independent
30 contractor is exempt from the registration requirements of that act.

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

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

39
40 7. Section 12 of P.L.2004, c.16 (C.56:8-147) is amended to
41 read as follows:

42 12. a. This act shall supersede any municipal ordinance or
43 regulation that provides for the licensing or registration of home
44 improvement contractors or for the protection of homeowners by
45 bonds or warranties required to be provided by home improvement

1 contractors, exclusive of those required by water, sewer, utility, or
2 land use ordinances or regulations.

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

7 c. A municipality may issue a construction permit for a home
8 improvement only to:

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

11 (2) a person who is performing the home improvement and is
12 not required to be registered under P.L.2004, c.16 (C.56:8-
13 136 et seq.); or

14 (3) the owner of the property, provided that the person who is
15 performing the home improvement is the owner of the property or is
16 eligible to obtain a construction permit pursuant to paragraph (1) or
17 (2) of this subsection.

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

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

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

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

32

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

35 16. a. **【On or after December 31, 2005, every】** Every home
36 improvement contract for a purchase price in excess of \$500, and
37 all changes in the terms and conditions of the contract, shall be in
38 writing. The contract shall be signed by all parties thereto and shall
39 not contain any blank spaces for information including, but not
40 limited to, terms and conditions, to be added after the contract is
41 signed by the consumer, and shall clearly and accurately set forth in
42 legible form and in understandable language all terms and
43 conditions of the contract, including but not limited to:

44 (1) The legal name, business address, street address and, if
45 different, mailing address, and registration number of the
46 contractor;

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

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

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

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

29 "NOTICE TO CONSUMER

30 YOU MAY CANCEL THIS CONTRACT AT ANY TIME
31 BEFORE MIDNIGHT OF THE THIRD BUSINESS DAY AFTER
32 RECEIVING A COPY OF THIS CONTRACT. IF YOU WISH TO
33 CANCEL THIS CONTRACT, YOU MUST EITHER:

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

37 2. PERSONALLY DELIVER A SIGNED AND DATED
38 WRITTEN NOTICE OF CANCELLATION TO:

39 (Name of Contractor)

40 (Address of Contractor)

41 (Phone Number of Contractor)

42 If you cancel this contract within the three-day period, you are
43 entitled to a full refund of your money. Refunds must be made
44 within 30 days of the contractor's receipt of the cancellation
45 notice." **】**

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

4 "NOTICE TO CONSUMER

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

8 Do not sign any completion certificate or agreement stating that you
9 are satisfied with the entire project before this project is complete.
10 Home improvement contractors are prohibited by law from
11 requesting or accepting a certificate of completion signed by the
12 consumer prior to the actual completion of the work to be
13 performed under the home improvement contract."

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

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

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

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

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

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

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

37 e. Each home improvement contractor shall maintain a record
38 of the receipt of any consumer's notice of intent to rescind a sale
39 under P.L.2004, c.16 (C.56:8-136 et seq.) for at least 24 months
40 after the current registration period for that contractor expires.

41 f. At the time of executing every home improvement contract
42 subject to the provisions of P.L.2004, c.16 (C.56:8-136 et seq.), the
43 contractor shall deliver to the consumer two copies of a receipt
44 which clearly and conspicuously set forth:

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

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

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

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

7 "NOTICE TO CONSUMER: YOU MAY RESCIND THIS SALE
8 PROVIDED THAT YOU NOTIFY THE HOME IMPROVEMENT
9 CONTRACTOR OF YOUR INTENT TO DO SO BY CERTIFIED
10 MAIL, RETURN RECEIPT REQUESTED, POSTMARKED NOT
11 LATER THAN 5:00 PM OF THE THIRD BUSINESS DAY
12 FOLLOWING THE SALE. FAILURE TO EXERCISE THIS
13 OPTION, HOWEVER, WILL NOT INTERFERE WITH ANY
14 OTHER REMEDIES AGAINST THE HOME IMPROVEMENT
15 CONTRACTOR YOU MAY POSSESS. IF YOU WISH YOU
16 MAY USE THIS PAGE AS NOTIFICATION BY WRITING "I
17 HEREBY RESCIND" AND ADDING YOUR NAME AND
18 ADDRESS. A DUPLICATE OF THIS RECEIPT IS PROVIDED
19 BY THE HOME IMPROVEMENT CONTRACTOR FOR YOUR
20 RECORDS."

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

25 i. A contractor who in the ordinary course of business
26 regularly uses a language other than English in any advertising or
27 other solicitation of consumers, or in any printed forms for use by
28 consumers, or in any face-to-face negotiations with consumers shall
29 deliver the two copies of the receipt to a consumer whose principal
30 language is such other language, one in English and one in the other
31 language.

32 j. A home improvement contract for home improvement work
33 needed by the consumer to meet a bona fide emergency, where the
34 contract with the contractor was initiated by the consumer, shall not
35 be subject to the cancellation provisions of subsection d. of this
36 section, if the consumer furnishes the contractor with a statement
37 separate from the contract, in a form approved by the division,
38 dated and signed by the consumer, describing the situation requiring
39 immediate remedy and expressly acknowledging and waiving the
40 right to cancel the contract within three business days.

41 (cf: P.L.2004, c.155, s.4)

42
43 9. (New section) a. There is established in the General Fund a
44 non-lapsing fund to be known as the "Home Improvement
45 Consumer Protection Fund" which shall be administered by the
46 State Treasurer. The State Treasurer shall deposit into the "Home
47 Improvement Consumer Protection Fund" all fees and penalties

1 collected by the director pursuant to P.L.2004, c.16 (C.56:8-
2 136 et seq.).

3 b. The Legislature shall annually appropriate monies from the
4 fund to the division for the payment of the division's expenses
5 incurred in administering and enforcing the "Contractors'
6 Registration Act," P.L.2004, c.16 (C.56:8-136 et seq.).
7

8 10. This act shall take effect 120 days after enactment, but the
9 Division of Consumer Affairs may take such anticipatory acts in
10 advance of that date as may be necessary for the timely
11 implementation of this act upon its effective date.
12

13
14 STATEMENT
15

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

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

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

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

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

45 The bill limits the scope of the act to residential property and
46 eliminates non-commercial property from the scope of the act.
47 Additionally, the bill eliminates from the scope of the act contracts

1 between contractors and owners for converting existing commercial
2 structures into residential property.

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

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

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

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

33 The bill also revises the act to:

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

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- 1 • create a non-lapsing fund in the Department of the Treasury
- 2 for the deposit of fees and penalties, consistent with the
- 3 change to biennial registration.