

ASSEMBLY, No. 281

STATE OF NEW JERSEY 208th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 1998 SESSION

Sponsored by:

Assemblyman NEIL M. COHEN

District 20 (Union)

Assemblywoman ARLINE M. FRISCIA

District 19 (Middlesex)

Co-Sponsored by:

Assemblywoman Gill

SYNOPSIS

"Home Improvement Contractors' Registration and Warranty Act."

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 2/24/1998)

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CT concerning home improvement contractors and warranties and supplementing Title 46 of the Revised Statutes.

B
E IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. This act shall be known and may be cited as the "Home Improvement Contractors' Registration and Warranty Act."

2. As used in this act:
"Commissioner" means the Commissioner of Community Affairs or the commissioner's designee.

"Department" means the Department of Community Affairs.

"Fund" means the Home Improvement Warranty Security Fund established pursuant to section 9 of this act.

"Home improvement" means the remodeling, altering, repairing, modernizing, modifying, converting, improving, constructing, adding to, subtracting from, moving, wrecking, or demolishing of residential property and the making of additions thereto, including, but not limited to, the construction, installation, replacement, improvement, or repair of driveways, sidewalks, swimming pools, terraces, patios, fences, porches, decks, windows, doors, cabinets, kitchens, bathrooms, garages, basements, fire protection devices, alarm systems, central heating and air conditioning equipment, water heaters and purifiers, solar heating or water systems, aluminum and vinyl siding, wall-to-wall carpeting, or attached or inlaid floor coverings, carpentry, cesspool and septic tanks, masonry, roofing, and other improvements, changes or repairs to structures or upon land which is part of a residential property. Home improvement shall also include basement waterproofing, insulation installation, and the conversion of existing commercial structures into residential property, but shall not include the construction of a new residence.

"Home improvement contract" or "contract" means an agreement between a home improvement contractor and an owner for the performance of a home improvement costing \$500 or more. The contract shall be in writing and shall include, but not be limited to, a concise description of the home improvement to be performed and all labor, services, and materials to be rendered and furnished by the contractor.

"Home improvement contractor" or "contractor" means an

1 individual, corporation, partnership, association, or other legal entity
2 which offers to perform or performs, either directly or through others,
3 home improvements. The term shall not include:

4 (1) any person required to register pursuant to "The New Home
5 Warranty and Builders' Registration Act," P.L.1977, c.467 (C.46:3B-1
6 et seq.), provided that person does not offer to perform or perform
7 home improvements;

8 (2) any person performing a home improvement upon a residential
9 property he owns, or that is owned by a member of his family, a
10 charity, or other non-profit corporation;

11 (3) any person licensed under the provisions of section 16 of
12 P.L.1960, c.41 (C.17:16C-77); or

13 (4) any person regulated by the State as an architect, professional
14 engineer, landscape architect, land surveyor, electrical contractor,
15 master plumber, or any other person in any other related profession
16 requiring registration, certification, or licensure by the State, who is
17 acting within the scope of his profession.

18 "Owner" means the person who owns the residential property and
19 contracts with a contractor to perform a home improvement on that
20 property, and his successors in title.

21 "Residential property" means that portion of any owner-occupied
22 dwelling unit, planned real estate development, or cooperative and all
23 structures appurtenant thereto, and any portion of the lot or site on
24 which the structure is situated that is devoted to the residential use of
25 the structure.

26 "Warranty" means a warranty prescribed by the commissioner as
27 part of the warranty program established pursuant to section 7 of this
28 act.

29 "Warranty date" means the date when the home improvement is
30 completed and paid-in-full.

31

32 3. a. No home improvement contractor shall offer to perform
33 home improvements or shall engage in the business of performing
34 home improvements unless registered with the Department of
35 Community Affairs in accordance with the provisions of this act.

36 b. Every home improvement contractor doing business in the State
37 shall biennially register with the commissioner. Application for
38 registration shall be on a form provided by the department and shall be
39 accompanied by a reasonable fee, set by the commissioner in an
40 amount sufficient to defray the department's costs of registering home
41 improvement contractors; provided, however, that the initial
42 registration fee assessed under the provisions of this act shall not
43 exceed \$200. Every applicant shall provide the following information:

44 (1) if an individual, the applicant's name and business address;

45 (2) if a partnership, the names and addresses of the general
46 partners;

1 (3) if a joint venture, the names and addresses of all parties to the
2 venture;

3 (4) if a corporation, the names and addresses of all officers;

4 (5) evidence of liability insurance and worker's compensation
5 insurance in an amount determined by the commissioner, except if the
6 home improvement contractor qualifies as a self-insurer under Title 34
7 of the Revised Statutes or if he is precluded from purchasing worker's
8 compensation under chapter 15 of Title 34 of the Revised Statutes;

9 (6) disclosure of any recorded and unsatisfied judgments against
10 the home improvement contractor; and

11 (7) such other information regarding the applicant and his home
12 improvement business as the commissioner may deem appropriate.

13 c. In addition to the requirements set forth in subsection b. of this
14 section, every applicant for registration, or an officer or partner of the
15 firm applying for registration in the case of a partnership, joint
16 venture, or corporation, shall submit to the commissioner an affidavit,
17 sworn before a notary public, that:

18 (1) the applicant, officer, or partner, as the case may be, has read
19 and understands the provisions of this act; and

20 (2) the applicant, officer, or partner, as the case may be, has read
21 and understands the rules and regulations governing the practices of
22 home improvement contractors promulgated by the Director of the
23 Division of Consumer Affairs in the Department of Law and Public
24 Safety under the authority of section 4 of P.L.1960, c.39 (C.56:8-4).

25 d. In addition to the requirements set forth in subsections b. and c.
26 of this section, every applicant, officer, or partner, as the case may be,
27 who, in accordance with the provisions of section 9 of this act, is
28 required to participate in the Home Improvement Warranty Security
29 Fund, shall, after the establishment of that fund, and in a manner
30 prescribed by the commissioner, furnish proof of his participation in
31 the fund or in an alternate home improvement warranty security
32 program approved by the commissioner.

33 e. A person registered as a new home builder under the provisions
34 of "The New Home Warranty and Builders' Registration Act,"
35 P.L.1977, c.467 (C.46:3B-1 et seq.) who offers to perform or
36 performs home improvements shall register in accordance with the
37 provisions of this act, but shall not be assessed any fee for his biennial
38 registration as a home improvement contractor so long as he holds a
39 valid certificate of registration as a new home builder.

40

41 4. The commissioner shall issue a certificate of registration to each
42 applicant who qualifies under this act. Each certificate shall have a
43 registration number. A home improvement contractor shall
44 conspicuously display his registration number wherever his company
45 or business name is displayed. Upon the request of any customer or
46 construction official, a home improvement contractor shall display his

1 certificate of registration.

2

3 5. a. Every home improvement contract, and all changes in the
4 terms and conditions of the contract, shall be in writing. The contract
5 shall be signed by all the parties thereto, and shall clearly and
6 accurately set forth in legible form and in understandable language all
7 terms and conditions of the contract, including, but not limited to:

8 (1) The legal name, business address, and registration number of
9 the home improvement contractor;

10 (2) A description of the work to be completed by the home
11 improvement contractor and the identification of the principal products
12 and materials to be used or installed in the performance of the home
13 improvement. Where specific representations are made that certain
14 types of products or materials will be used, or the owner has specified
15 that certain types of products are to be used, a description of those
16 products or materials shall be clearly set forth in the contract;

17 (3) The total price or other consideration to be paid by the owner,
18 including all finance charges. If the contract is for labor and materials,
19 the hourly rate for labor and any other terms and conditions of the
20 contract affecting the price shall be clearly stated;

21 (4) The dates on or time period within which the work is to begin
22 and be completed by the home improvement contractor;

23 (5) A description of any mortgage or security interest to be taken
24 in connection with the financing or sale of the home improvement;

25 (6) A statement setting forth any guarantee or warranty with
26 respect to any products, materials, labor or services made by either the
27 manufacturer of those products or materials or by the home
28 improvement contractor; and

29 (7) If the home improvement requires a construction permit
30 pursuant to the "State Uniform Construction Code Act," P.L.1975,
31 c.217 (C.52:270-119 et seq.), a statement, provided by the
32 commissioner, summarizing the "Home Improvement Warranty
33 Security Fund" program.

34 b. In addition to the requirements set forth in subsection a. of this
35 section, every written home improvement contract shall contain a
36 conspicuous notice printed in 10-point bold-faced type as follows:

37

38

"NOTICE TO CONSUMER

39

40 YOU ARE ENTITLED TO A COPY OF THIS
41 CONTRACT WHEN YOU SIGN IT. KEEP IT TO PROTECT
42 YOUR RIGHTS.

43

44 HOME IMPROVEMENT CONTRACTORS ARE
45 REQUIRED BY LAW TO BE REGISTERED WITH THE
46 NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS.

1 IF YOU HAVE ANY QUESTIONS CONCERNING A
2 CONTRACTOR, YOU MAY CALL (insert telephone number)."

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

19
20 "NOTICE TO CONSUMER

21
22 YOU MAY CANCEL THIS CONTRACT AT ANY TIME
23 BEFORE MIDNIGHT OF THE THIRD BUSINESS DAY
24 AFTER RECEIVING A COPY OF THIS CONTRACT. IF
25 YOU WISH TO CANCEL THIS CONTRACT, YOU MUST
26 EITHER:

- 27 1. SEND A SIGNED AND DATED WRITTEN NOTICE
28 OF CANCELLATION BY REGISTERED OR CERTIFIED
29 MAIL, RETURN RECEIPT REQUESTED; OR
30 2. PERSONALLY DELIVER A SIGNED AND DATED
31 WRITTEN NOTICE OF CANCELLATION TO:

32 (Name of Home Improvement Contractor)

33 (Address of Home Improvement Contractor)

34
35 If you cancel this contract within the three-day period, you
36 are entitled to a full refund of your money. Refunds must be
37 made within 30 days of the contractor's receipt of the
38 cancellation notice."

39
40 7. a. The commissioner, after consultation with representatives
41 from the National Association of the Remodeling Industry and the
42 New Jersey Builders Association, shall promulgate rules and
43 regulations establishing a home improvement warranty program. The
44 warranty program shall include standards for home improvements and
45 for the quality of the elements and components of home improvements
46 with guidelines, where appropriate, of what degree of noncompliance

1 with those standards shall constitute a defect. The commissioner, after
2 consultation with representatives from the National Association of the
3 Remodeling Industry and the New Jersey Builders Association, shall
4 also promulgate rules and regulations establishing procedures for the
5 processing of claims against the "Home Improvement Warranty
6 Security Fund" established pursuant to section 9 of this act. Only
7 claims involving home improvements for which a construction permit
8 is required pursuant to the "State Uniform Construction Code Act,"
9 P.L.1975, c.217 (C.52:27D-119 et seq.) shall be covered by and be
10 eligible for award payments from the fund. The rules and regulations
11 shall be adopted, and may be amended or repealed, in accordance with
12 the provisions of the "Administrative Procedure Act," P.L.1968. c.410
13 (C.52:14B-1 et seq.); except that a public hearing shall be required
14 prior to the adoption, amendment, or repeal of any rule or regulation.

15 b. The time periods for the warranties established pursuant to this
16 act are:

17 (1) One year from and after the warranty date, the home
18 improvement shall be free from defects caused by faulty workmanship
19 or defective materials due to noncompliance with the standards
20 established by the commissioner;

21 (2) Two years from and after the warranty date, the home
22 improvement shall be free from defects caused by faulty installation of
23 plumbing, electrical, heating and cooling delivery systems; except that
24 in the case of an appliance, no warranty shall exceed the length and
25 scope of the warranty offered by the manufacturer of that appliance;
26 and

27 (3) Five years from and after the warranty date for major
28 construction defects.

29 Notwithstanding the provisions of this subsection, an alternative
30 program submitted for approval pursuant to section 10 of this act may
31 contain warranties and time periods which are more inclusive and of
32 greater duration than those set forth in paragraphs (1), (2), and (3) of
33 this subsection.

34

35 8. During the applicable term of a home improvement warranty, the
36 contractor shall be liable to the owner for any defect covered under the
37 terms and conditions of that warranty. The liability of a home
38 improvement contractor under this section shall not exceed the total
39 cost of the home improvement, as set forth in the contract between the
40 owner and the contractor.

41

42 9. a. There is established a nonlapsing, revolving fund, to be
43 known as the "Home Improvement Warranty Security Fund" to be
44 maintained by the State Treasurer and administered by the
45 commissioner. The purpose of the fund is to provide moneys
46 sufficient to pay claims by owners against home improvement

1 contractors participating in the fund for defects in home improvements
2 for which a construction permit is required pursuant to the "State
3 Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et
4 seq.).

5 b. On or after the first day of the 13th month immediately
6 following the issuance of the first certificates of registration pursuant
7 to section 4 of this act, the commissioner shall establish the amounts
8 payable to the fund by home improvement contractors who perform or
9 offer to perform home improvements for which a construction permit
10 is required pursuant to the "State Uniform Construction Code Act,"
11 P.L.1975, c.217 (C.52:27D-119 et seq.) and the times those amounts
12 shall be payable. The commissioner may, from time to time and as the
13 experience of the fund may require, change the amounts payable by
14 participating home improvement contractors.

15 A home improvement contractor who does not perform or offer to
16 perform home improvements for which a construction permit is
17 required pursuant to the "State Uniform Construction Code Act,"
18 P.L.1975, c.217 (C.52:27D-119 et seq.) shall not be required to pay
19 any moneys into the fund.

20 The amount so established by the commissioner, together with any
21 other amounts that may accrue as interest or which otherwise may be
22 made available or credited to the fund, shall be sufficient to cover the
23 costs of anticipated claims, educate the public concerning the
24 protections provided through the department for persons who contract
25 for home improvements, provide a reasonable reserve, and defray the
26 costs of administering the fund. The amounts paid by participating
27 home improvement contractors shall be forwarded to the State
28 Treasurer and shall be accounted for and credited by him to the fund.

29 c. Prior to making a claim against the fund for a defect covered by
30 the warranty, the owner shall notify the home improvement contractor
31 of the defect. If the contractor fails to remedy the defect within a
32 reasonable time period, as the commissioner shall by rule and
33 regulation prescribe, the owner may file a claim against the fund in the
34 form and manner prescribed by the commissioner.

35 The commissioner shall review each claim to determine its validity.
36 In the case of a valid claim, the commissioner shall:

37 (1) Hold a hearing in accordance with the provisions of the
38 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)
39 applicable to contested cases, if requested by either party;

40 (2) Submit the claim to a conciliation procedure, established by the
41 commissioner pursuant to rule and regulation;

42 (3) Submit the claim to an arbitration procedure, established by the
43 commissioner pursuant to rule and regulation, if conciliation fails and
44 the owner so requests; or

45 (4) Render a decision on the claim.

46 The commissioner may assess reasonable hearing fees against the

1 unsuccessful party.

2 Either party may, in accordance with the provisions of the
3 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
4 seq.), appeal a decision rendered by the commissioner.

5 If a home improvement contractor is unable or unwilling to remedy
6 any defect or incompleteness identified in any conciliation, arbitration,
7 or commissioner's decision, an award shall be paid to the owner from
8 the fund. The amount of the award shall be sufficient to cover the
9 reasonable costs of remedying the defect or incompleteness, but shall not
10 exceed the total cost of the home improvement set forth in the
11 contract. The award shall be paid to the owner by the State Treasurer
12 upon certification by the commissioner.

13 In the case of a home improvement contractor who is unable or
14 unwilling to remedy a defect or incompleteness, the commissioner may,
15 as empowered under the provisions of section 11 of this act, proceed
16 to deny, suspend, or revoke that home improvement contractor's
17 certificate of registration and, if appropriate, file a report thereon with
18 the Attorney General.

19 d. If, at any time, the moneys available in the fund are insufficient
20 to satisfy any outstanding awards and any anticipated awards for the
21 succeeding year:

22 (1) The commissioner may, after public hearing and upon
23 reasonable notice:

24 (a) schedule award payments and establish a maximum amount that
25 may be paid on any one claim; or

26 (b) require the participating home improvement contractors to pay
27 an additional amount into the fund.

28 (2) The commissioner may also provide for:

29 (a) The assessment of surcharges against participating home
30 improvement contractors who are responsible for awards against the
31 fund;

32 (b) The initiation of an action in a court of competent jurisdiction
33 for the reimbursement of awards paid from the fund by a home
34 improvement contractor who was unable or unwilling to remedy a
35 defect or incompleteness; and

36 (c) The termination, after notice and hearing, of participation in the
37 fund of a home improvement contractor who is responsible for a
38 disproportionate number of awards paid from the fund.

39 e. The State shall have no obligation to contribute or otherwise
40 make available to the fund any moneys from the General Fund and the
41 State shall have no liability to any person having a claim against the
42 fund, but which may be unpayable due to an insufficiency of moneys
43 available therein.

44

45 10. The commissioner may approve an alternative home
46 improvement warranty security program that provides for payments of

1 claims against participating home improvement contractors for defects
2 subject to warranty and that is sufficiently funded to adequately cover
3 the claims that may be reasonably anticipated to be filed against the
4 participating contractors. The coverage afforded under an alternate
5 program shall be at least equivalent to that offered under the fund.

6 Any person seeking approval of an alternate home improvement
7 warranty security program shall apply to the commissioner. The
8 application shall be in a manner and form and contain such information
9 as the commissioner may prescribe. An application fee, sufficient to
10 cover the costs incurred by the department in reviewing such
11 applications, shall be established by the commissioner. The
12 commissioner shall review each application and may conduct such
13 investigations as he deems necessary. The commissioner may, and if
14 an applicant so requests, shall, hold a hearing on an application.

15 If the commissioner determines that the proposed alternate home
16 improvement warranty security program provides coverage equivalent
17 to that afforded under the fund and is adequately funded, he shall
18 approve the alternate program.

19 A home improvement contractor who participates in an approved
20 alternate home improvement warranty security program shall not be
21 required to participate in the "Home Improvement Warranty Security
22 Fund" established under the provisions of section 9 of this act or to
23 pay any amounts into that fund.

24 From time to time, the commissioner shall review each approved
25 alternate home improvement warranty security program. If, in the
26 course of his review, the commissioner shall determine that the
27 program no longer provides equivalent coverage or is insufficiently
28 funded, he may, after notice and hearing, revoke or suspend approval
29 of the alternate program and require the affected contractors to
30 participate in the fund.

31
32 11. a. The commissioner, upon the complaint of an aggrieved
33 person, may conduct investigations into the allegations made against
34 any home improvement contractor required to be registered under the
35 provisions of this act. In pursuit of his investigations, the
36 commissioner is authorized to hold hearings, in accordance with the
37 provisions of the "Administrative Procedure Act," P.L.1968, c.410
38 (C.52:14B-1 et seq.) applicable to contested cases; to subpoena
39 witnesses and compel their attendance; to require the production of
40 papers, records, or documents; to administer oaths or affirmations to
41 witnesses; to inspect such relevant books, papers, records, or
42 documents of the home improvement contractor at that contractor's
43 place of business during normal business hours; and to conduct
44 inspections of the home improvement work performed. The
45 commissioner may assess reasonable hearing fees against the
46 unsuccessful party.

1 b. The commissioner may deny, suspend, or revoke any certificate
2 of registration, subject to affording the registrant or applicant the
3 opportunity for a hearing and appeals therefrom in accordance with the
4 provisions of the "Administrative Procedure Act," P.L.1968, c.410
5 (C.52:14B-1 et seq.) applicable to contested cases, if the registrant or
6 applicant has:

7 (1) Willfully made a misstatement of a material fact in an
8 application for registration or re-registration;

9 (2) Conducted a home improvement business in any name other
10 than the one for which the contractor holds a certificate of
11 registration;

12 (3) Practiced the occupation of home improvement contracting in
13 manner that violates the rules and regulations governing the practices
14 of home improvement contractors promulgated by the Director of the
15 Division of Consumer Affairs in the Department of Law and Public
16 Safety under the authority of section 4 of P.L.1960, c.39 (C.56:8-4);

17 (4) Knowingly violated any applicable building code provisions to
18 a substantial degree;

19 (5) Failed to comply with any provisions of this act or the rules
20 adopted pursuant thereto, after due notice from the commissioner, sent
21 by certified mail;

22 (6) Abandoned or failed to perform, without justification, any
23 home improvement contract;

24 (7) Willfully deviated from, or disregarded, contract specifications
25 without the written consent of the owner; or

26 (8) Failed, after the establishment of the home improvement
27 warrant security fund pursuant to section 9 of this act, to participate
28 or continue to participate in that fund or in an approved alternative
29 home improvement warranty security program, if so required under the
30 provisions of this act, after receipt of due notice from the
31 commissioner, sent by certified mail.

32 c. To further protect the consumers of this State, the commissioner
33 shall file a report with the Attorney General whenever:

34 (1) The commissioner denies, suspends, or revokes a home
35 improvement contractor's certificate registration for a violation which
36 involves paragraph (2), (3), (7), or (8) of subsection b. of this section;
37 or

38 (2) The commissioner, in the course of an investigation conducted
39 under the provisions of this act, shall determine that the home
40 improvement contractor may have used or employed an
41 unconscionable commercial practice which may constitute an unlawful
42 practice under the provisions of P.L.1960, c.39 (C.56:8-1 et seq.).

43 The Attorney General may exercise the powers accorded by
44 P.L.1960, c.39 (C.56:8-1 et seq.) in connection with any report filed
45 under the provisions of this subsection.

1 12. Nothing in this act shall limit the rights and remedies otherwise
2 available to an aggrieved owner. The owner shall have the right to
3 pursue any remedy legally available; except that the initiation of
4 procedures to enforce a remedy other than that established by this act
5 shall constitute an election that shall bar the owner from the remedies
6 available under this act, while the election of a remedy under this act
7 shall bar the owner from all other remedies. Nothing contained in this
8 section shall be deemed to limit an owner's right of appeal under the
9 remedy so elected.

10
11 13. Any home improvement contractor who fails to register in
12 accordance with the provisions of this act, or who offers to perform
13 or performs home improvements without registering in accordance
14 with the provisions of this act or during a period when his registration
15 is suspended or revoked by the commissioner, shall be subject to a
16 penalty of not less than \$500 nor more than \$25,000 for each offense.
17 The penalty shall be enforced and collected by the commissioner in the
18 name of the State in summary proceedings in accordance with "the
19 penalty enforcement law" (N.J.S.2A:58-1 et seq.).

20 The penalties collected pursuant to the provisions of this section
21 shall be used exclusively by the department to administer and enforce
22 the provisions of this act.

23
24 14. a. This act shall supersede any municipal ordinance or
25 regulation that provides for the licensing or registration of home
26 improvement contractors or for the protection of homeowners by
27 bonds or warranties required to be provided by home improvement
28 contractors, exclusive of those required by water, sewer, utility, or
29 land use ordinances or regulations.

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

33
34 15. The commissioner shall establish and undertake a public
35 information campaign to educate and inform home improvement
36 contractors and the consumers of this State of the provisions of this
37 act. This public information and education program shall include a
38 toll-free public telephone information service within the Department
39 of Community Affairs to answer questions from the public regarding
40 contractor registrations.

41
42 16. The commissioner, after consultation with the Commissioner
43 of Insurance, shall promulgate rules and regulations requiring insurers
44 to disclose to the department all such information concerning the
45 issuance, renewal, cancellation, nonrenewal and termination of the
46 insurance required for registration as a home improvement contractor

1 under the provisions of paragraph (5) of subsection a. of section 3 of
2 this act as the commissioner shall deem necessary to enforce the
3 provisions of this act.

4
5 17. The commissioner, pursuant to the provisions of the
6 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
7 seq.), shall promulgate rules and regulations to effectuate the purposes
8 of this act.

9
10 18. This act shall take effect on the first day of the sixth month after
11 enactment, except that sections 16 and 17 shall take effect
12 immediately.

13
14
15 STATEMENT

16
17 This bill provides for the registration of home improvement
18 contractors with the Department of Community Affairs. The bill also
19 establishes the "Home Improvement Warranty Security Fund" to
20 provide moneys to pay the claims of consumers against contractors for
21 defects in certain types of home improvements. The bill specifies that
22 only claims involving home improvements for which a construction
23 code permit is required pursuant to the "State Uniform Construction
24 Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) are covered by
25 and eligible for payments from the fund.

26 Under the provisions of the bill, every home improvement
27 contractor doing business in the State must biennially register with the
28 department and provide such personal and business information as the
29 Commissioner of Community Affairs deems appropriate, including
30 evidence of liability insurance and worker's compensation insurance.
31 In addition, applicants for registration are required to affirm that they
32 have read and understood the provisions of the bill, and have read and
33 understood the rules and regulations governing the practices of home
34 improvement contractors promulgated by the Director of the Division
35 of Consumer Affairs in the Department of Law and Public Safety
36 under the authority of section 4 of P.L.1960, c.39 (C.56:8-4). Once
37 the "Home Improvement Warranty Security Fund" is operational,
38 applicants who perform or offer to perform, home improvements
39 which require construction code permits also must provide proof that
40 they are participating either in that fund or an alternate warranty
41 security fund approved by the commissioner.

42 The bill specifies that all home improvement contracts, and
43 amendments thereto, must be in writing and that the language used in
44 the contract must be clear and understandable. Home improvement
45 contracts are also required to include a description of the work to be
46 done and the types of products to be used, the total price of the

1 improvement, the date or time period when the work is to begin and
2 be completed, any manufacturer's guarantees or warranties on the
3 products used, a statement informing the consumer that he has the
4 right to cancel a home improvement contract within three days of
5 signing it without penalty, and, if the type of home improvement so
6 requires it, information relating to the protections afforded the
7 consumer under the "Home Improvement Warranty Security Fund."

8 The bill also sets forth certain prohibited and unlawful acts by home
9 improvement contractors. Home improvement contractors who are
10 not registered pursuant to the provisions of this bill are subject to fines
11 of not less than \$500 or more than \$25,000 and those who are
12 registered, and who violate the bill's provisions, may have their
13 registration suspended or revoked. To further protect the consumers
14 of this State, the commissioner is to file a report with the Attorney
15 General whenever a home improvement contractor's registration is
16 revoked or suspended for specific violations or for employing an
17 unconscionable commercial practice. In such cases, the Attorney
18 General is authorized to exercise the powers accorded him under the
19 consumer fraud laws, P.L.1960, c.39 (C.56:8-1 et seq.).

20 The registration and warranty program established by the bill are
21 designed to supersede all local registration, licensing and bonding
22 requirements, except those relating to water, sewer, utility or land use.
23 The bill also prohibits municipalities from issuing construction permits
24 for any home improvement to a contractor who is not registered with
25 the department.

26 In addition, the bill directs the commissioner to establish and
27 undertake a public information campaign to educate consumers and
28 home improvement contractors of their rights and responsibilities and
29 requires the Department of Community Affairs to establish a toll-free
30 telephone number to answer questions from the public regarding
31 contractor registrations.