

**ASSEMBLY, No. 2959**

**STATE OF NEW JERSEY**  
**208th LEGISLATURE**

INTRODUCED MARCH 15, 1999

**Sponsored by:**

**Assemblyman NICHOLAS R. FELICE**

**District 40 (Bergen and Passaic)**

**SYNOPSIS**

The "Home Improvement Contractors Registration Act."

**CURRENT VERSION OF TEXT**

As introduced.



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2

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

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

6  
7 1. This act shall be known and may be cited as the "Home  
8 Improvement Contractors Registration Act."

9  
10 2. As used in this act:

11 "Clerk" means the clerk of the county in which the home  
12 improvement contractor proposes to work.

13 "Division" means the Division of Consumer Affairs in the  
14 Department of Law and Public Safety.

15 "Director" means the Director of the Division of Consumer Affairs.

16 "Home improvement" means the remodeling, constructing, erecting,  
17 altering, renovating, repairing, restoring, re-roofing, re-siding, moving,  
18 demolishing, or otherwise improving or modifying of the whole or any  
19 part of any residential property, for which a construction permit is  
20 required pursuant to the "State Uniform Construction Code Act,"  
21 P.L.1975, c.217 (C.52:27D-119 et seq.).

22 "Home improvement contract" or "contract" means an agreement  
23 between a home improvement contractor and a buyer who is the owner  
24 or occupant of a residential property for the performance of a home  
25 improvement costing \$100 or more.

26 "Home improvement contractor" or "contractor" means an  
27 individual, corporation, partnership, association, or other legal entity  
28 which offers to perform or performs, either directly or through others,  
29 home improvements pursuant to a home improvement contract. The  
30 term shall not include:

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

34 b. any person performing a home improvement upon a residential  
35 property he owns, or that is owned by a member of his family, a  
36 charity, or other non-profit organization or corporation;

37 c. any person regulated by the State as an architect, professional  
38 engineer, landscape architect, land surveyor, electrical contractor,  
39 master plumber, or any other person in any other related profession  
40 requiring registration, certification, or licensure by the State, who is  
41 acting within the scope of his profession; and

42 d. Any person who is employed by a homeowners' association.

43 "Residential property" means any portion of any dwelling unit,  
44 planned real estate development, or cooperative, and all structures  
45 appurtenant thereto, and any portion of the lot, curtilage, or site on  
46 which the unit or structure is situated.

1       3. a. A home improvement contractor shall not perform a home  
2 improvement and shall not engage in the business of performing home  
3 improvements unless registered with either the division or the clerk of  
4 the county in which the contractor proposes to work, in accordance  
5 with the provisions of this act. In regard to home improvement  
6 contractors who register with the clerk, this subsection shall not be  
7 construed to apply to a contractor's advertisements for business in any  
8 county in this State, including alphabetical listings in standard  
9 telephone directories, as long as the contractor is registered, under the  
10 provisions of this act, with at least one clerk of one county in this  
11 State.

12       b. Every home improvement contractor shall biennially register  
13 with either the division or the clerk of the county before the contractor  
14 performs a home improvement in this State or that county, as the case  
15 may be. Application for registration shall be on a form provided by  
16 the division or clerk and shall be accompanied by a reasonable fee, set  
17 by the division or the governing body of the county by ordinance or  
18 resolution, as appropriate, in an amount sufficient to defray the State's  
19 or county's cost of registering home improvement contractors;  
20 provided, however, that the initial registration fee assessed under the  
21 provisions of this act shall not exceed \$100. Every applicant shall  
22 provide the following information:

23       (1) if an individual, the applicant's name, business address, and  
24 business telephone number;

25       (2) if a partnership, the names, addresses, and telephone numbers  
26 of the general partners;

27       (3) if a joint venture, the names, addresses, and telephone numbers  
28 of all parties to the venture;

29       (4) if a corporation, the names, addresses, and telephone numbers  
30 of all officers;

31       (5) evidence of workers' compensation insurance, unless the home  
32 improvement contractor qualifies as a self-insurer under Title 34 of the  
33 Revised Statutes or if he is precluded from purchasing workers'  
34 compensation under chapter 15 of Title 34 of the Revised Statutes;

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

37       (7) such other information regarding the applicant and his home  
38 improvement business as the division or governing body, as  
39 appropriate, may deem appropriate.

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

44       d. In addition to the requirements set forth in subsections b. and c.  
45 of this section, every applicant for registration, or an officer or partner  
46 of the firm applying for registration in the case of a partnership, joint

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1 venture, or corporation, shall submit to the division or clerk, as  
2 appropriate, an affidavit, sworn before a notary public that:

3 (1) the applicant, officer, or partner, as the case may be, has read  
4 and understood the provisions of this act; and

5 (2) the applicant, officer or partner, as the case may be, has read  
6 and understood the rules and regulations governing the practices of  
7 home improvement contractors promulgated by the director pursuant  
8 to section 4 of P.L.1960, c.39 (C.56:8-4).

9

10 4. a. The division or the clerk, as appropriate, shall issue a  
11 certificate of registration to each applicant who qualifies under this act  
12 and shall index and file a copy of the same and make it reasonably  
13 available for public inspection. Each certificate shall have a unique  
14 registration number. Upon the request of any customer or  
15 construction official, a home improvement contractor shall display his  
16 certificate of registration.

17 b. Each county shall annually supply the division with a list of  
18 home improvement contractors registered in that county and the  
19 division shall annually supply each county with a list of home  
20 improvement contractors registered with the division.

21

22 5. In any action instituted by a contractor for enforcement of a  
23 home improvement contract, if the contractor has failed to comply  
24 with the provisions of this act, no court shall enter a judgment for a  
25 contractor until there has been compliance. The court shall continue  
26 such case for up to 90 days and if there has not been compliance  
27 within such period, the action shall be dismissed.

28

29 6. a. It shall be a violation of this act to:

30 (1) Make, or cause to be made, publish or cause to be published,  
31 any false, misleading, or deceptive advertisement or representation  
32 concerning the services or products that the registrant provides;

33 (2) Engage in repeated acts of negligence, malpractice, or  
34 incompetence;

35 (3) Engage in gross negligence, gross malpractice, or gross  
36 incompetence; or

37 (4) Engage in any misconduct as may be determined by regulation  
38 of the director.

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

41

42 7. a. This act shall supersede any municipal ordinance or  
43 regulation that provides for the licensing or registration of home  
44 improvement contractors.

45 b. An enforcing agency shall not issue a construction permit for  
46 any home improvement to any home improvement contractor who is

1 not registered pursuant to the provisions of this act.

2

3 8. No municipality shall register or license as a contractor a person  
4 performing an improvement upon a residential or commercial property  
5 that he owns, or that is owned by a member of his family.

6

7 9. This act shall not deny to any municipality the power to inspect  
8 a home improvement contractor's work or equipment, the work of a  
9 contractor who performs improvements to commercial property, or the  
10 power to regulate the standards and manners in which the contractor's  
11 work shall be done.

12

13 10. This act shall take effect on the first day of the sixth month  
14 after enactment.

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STATEMENT

18

19 This bill requires contractors who are doing home improvements to  
20 register with either the Division of Consumer Affairs or the clerk of  
21 the county in which they propose to work, before they begin work, by  
22 completing registration forms provided by the division or clerk and by  
23 paying a fee, not to exceed \$100, established by the division or  
24 county's governing body, as appropriate. Such registration is biennial.  
25 Each applicant must provide his name, business address and business  
26 telephone number; evidence of workers' compensation insurance  
27 coverage; disclosure of any recorded and unsatisfied judgments against  
28 the home improvement contractor; and any other appropriate  
29 information required by the division or governing body. It also  
30 requires contractors to amend their registration within 20 days of any  
31 change. There would not be a fee for an amended registration.

32 In regard to contractors who register with the clerk, the bill does  
33 not limit a contractor's ability to advertise for business in any county  
34 in the State, so long as he is registered under this bill in at least one  
35 county and that he registers in the county in which he proposes to  
36 work before beginning any home improvement in that county.

37 Every applicant for registration must submit a sworn affidavit that  
38 the applicant has read and understands the provisions of this bill and  
39 the rules and regulations governing the practices of home improvement  
40 contractors promulgated by the Director of the Division of Consumer  
41 Affairs pursuant to the "consumer fraud law."

42 A contractor who fails to comply with the provisions of this bill  
43 shall have no judgment entered by a court for the contractor, in any  
44 action instituted by him for enforcement of a home improvement  
45 contract, until there has been compliance. The court shall continue  
46 such case for up to 90 days and if there has not been compliance

1 within such period, the action shall be dismissed.

2 The provisions of this bill supersede any municipal ordinance or  
3 regulation providing for the licensing or registering of home  
4 improvement contractors. However, the provisions of the bill do not  
5 restrict the power of a municipality to inspect a home improvement  
6 contractor's work or equipment, the work of a contractor who  
7 performs improvements to commercial property, or the power to  
8 regulate the standards and manners in which the contractor's work is  
9 done. In addition, an enforcing agency is prohibited from issuing a  
10 construction permit for any home improvement to any home  
11 improvement contractor who is not registered pursuant to the  
12 provisions of this bill.

13 The bill prohibits municipalities from registering or licensing as  
14 contractors those persons who perform improvements on residential  
15 or commercial property which they own or that is owned by a member  
16 of their family.

17 It is a violation of the provisions of the bill to: make, or cause to be  
18 made, publish or cause to be published, any false, misleading or  
19 deceptive advertisement or representation concerning the services or  
20 products that a home improvement contractor provides; engage in  
21 repeated acts of negligence, malpractice or incompetence; engage in  
22 gross negligence, gross malpractice, or gross incompetence; or engage  
23 in any misconduct as may be determined by regulation of the director.

24 Violation of the provisions of this bill is a violation of the  
25 "consumer fraud law" and violators are subject to penalties, which may  
26 include a fine of not more than \$7,500 for a first violation and not  
27 more than \$15,000 for any subsequent violation. In addition, the  
28 Attorney General is authorized to seek and obtain in a summary action  
29 an injunction prohibiting any violation from continuing to engage in  
30 such unlawful practice.

31 Under this bill, home improvement is defined to mean the  
32 remodeling, constructing, erecting, altering, renovating, repairing,  
33 restoring, re-roofing, re-siding, moving, demolishing, or otherwise  
34 improving or modifying of the whole or any part of any residential  
35 property, for which a construction permit is required pursuant to the  
36 "State Uniform Construction Code Act," P.L.1975, c.217  
37 (C.52:27D-119 et seq.).

38 The provisions of the bill do not apply to: any person required to  
39 register pursuant to "The New Home Warranty and Builders'  
40 Registration Act;" a person performing a home improvement upon a  
41 residential property he owns or that is owned by a member of his  
42 family, a charity, or other non-profit organization or corporation; any  
43 licensed person acting within the scope of practice of his profession;  
44 or any person who is employed by a homeowners' association.