

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, Nos. 74 and 748

STATE OF NEW JERSEY
208th LEGISLATURE

ADOPTED OCTOBER 19, 1998

Sponsored by:

Senator GERALD CARDINALE

District 39 (Bergen)

Senator ANDREW R. CIESLA

District 10 (Monmouth and Ocean)

Senator LEONARD T. CONNORS, JR.

District 9 (Atlantic, Burlington and Ocean)

SYNOPSIS

The "Home Improvement Contractors Registration Act."

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Commerce Committee.



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,
17 erecting, altering, renovating, repairing, restoring, re-roofing,
18 re-siding, moving, demolishing, or otherwise improving or modifying
19 of the whole or any part of any residential property, for which a
20 construction permit is required pursuant to the "State Uniform
21 Construction Code Act," 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

1 which the unit or structure is situated.

2

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

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

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

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

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

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

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

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

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

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

46 d. In addition to the requirements set forth in subsections b. and

1 c. of this section, every applicant for registration, or an officer or
2 partner of the firm applying for registration in the case of a
3 partnership, joint venture, or corporation, shall submit to the division
4 or clerk, as appropriate, an affidavit, sworn before a notary public
5 that:

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

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

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

20 b. Each county shall annually supply the division with a list of
21 home improvement contractors registered in that county and the
22 division shall annually supply each county with a list of home
23 improvement contractors registered with the division.

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

31
32 6. a. It shall be a violation of this act to:

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

36 (2) Engage in repeated acts of negligence, malpractice, or
37 incompetence;

38 (3) Engage in gross negligence, gross malpractice, or gross
39 incompetence; or

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

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

44
45 7. a. This act shall supersede any municipal ordinance or
46 regulation that provides for the licensing or registration of home

1 improvement contractors.

2 b. An enforcing agency shall not issue a construction permit for
3 any home improvement to any home improvement contractor who is
4 not registered pursuant to the provisions of this act.

5

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

9

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

15

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