Sponsored by:
Senator ROBERT W. SINGER
District 30 (Monmouth and Ocean)

SYNOPSIS
Requires background checks for home improvement and elevation contractors.

CURRENT VERSION OF TEXT
Introduced Pending Technical Review by Legislative Counsel.
AN ACT requiring background checks for certain contractors and amending P.L.2004, c.16.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

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

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

   a. Every [applicant] shall file a disclosure statement with the director stating whether the applicant has been convicted of any crime, which for the purposes of this act shall mean a violation of any of the following provisions of the "New Jersey Code of Criminal Justice," Title 2C of the New Jersey Statutes, or the equivalent under the laws of any other jurisdiction:

      (1) Any crime of the first degree;

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

      (3) Any other crime which is a violation of N.J.S.2C:5-1, 2C:5-2, 2C:11-2 through 2C:11-4, 2C:12-1, 2C:12-3, 2C:13-1, 2C:14-2, 2C:15-1, subsection a. or b. of 2C:17-1, subsection a. or b. of 2C:17-2, 2C:18-2, 2C:20-4, 2C:20-5, 2C:20-7, 2C:20-9, 2C:21-2 through 2C:21-4, 2C:21-6, 2C:21-7, 2C:21-12, 2C:21-14, 2C:21-15, or 2C:21-19, chapter 27 or 28 of Title 2C of the New Jersey Statutes, N.J.S.2C:30-2, 2C:30-3, 2C:35-5, 2C:35-10, 2C:37-1 through 2C:37-4] contractor and home elevation contractor shall submit the contractor’s or home elevation contractor’s name, address, and written consent to the director for a criminal history record background check to be performed to ensure that no criminal history record information exists on file in the Federal Bureau of Investigation or in the State Bureau of Identification in the Division of State Police, indicating that the contractor or home elevation contractor has been convicted of any crime that disqualifies the contractor or home elevation contractor from registration. The division is authorized, for purposes of facilitating determinations concerning registration eligibility, to require the fingerprinting of each contractor and home elevation contractor in accordance with applicable State and federal laws, rules and regulations. The contractor or home elevation contractor shall bear the cost for the criminal history record background check.

   b. The director may refuse to issue or may suspend or revoke any registration issued by him upon proof that the [applicant] contractor or [holder of the registration] home elevation contractor:

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) Has obtained a registration through fraud, deception or misrepresentation;
(2) Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;
(3) Has engaged in gross negligence, gross malpractice or gross incompetence;
(4) Has engaged in repeated acts of negligence, malpractice or incompetence;
(5) Has engaged in professional or occupational misconduct as may be determined by the director;
(6) Has been convicted of any crime involving moral turpitude or any crime relating adversely to the activity regulated by this act. For the purpose of this subsection a plea of guilty, non vult, nolo contendere or any other such disposition of alleged criminal activity shall be deemed a conviction;
(7) Has had his authority to engage in the activity regulated by the director revoked or suspended by any other state, agency or authority for reasons consistent with this section;
(8) Has violated or failed to comply with the provisions of any act or regulation administered by the director;
(9) Is incapable, for medical or any other good cause, of discharging the functions of a [licensee] registrant in a manner consistent with the public's health, safety and welfare.

c. [An applicant] A contractor or home elevation contractor whose registration is denied, suspended, or revoked pursuant to this section shall, upon a written request transmitted to the director within 30 calendar days of that action, be afforded an opportunity for a hearing in a manner provided for contested cases pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

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

e. [If any of the information required to be included in the disclosure statement changes, or if additional information should be added after the filing of the statement, the applicant shall provide that information to the director, in writing, within 30 calendar days of the change or addition.] (Deleted by amendment, P.L. , c. . )

f. Notwithstanding the provisions of paragraph (6) of subsection b. of this section, no individual shall be disqualified from registration or shall have registration revoked on the basis of any conviction indicated by a criminal history record background check performed pursuant to subsection a. of this section, or otherwise disclosed, if the individual has affirmatively demonstrated to the director clear and convincing evidence of the
individual's rehabilitation. In determining whether an individual has affirmatively demonstrated rehabilitation, the following factors shall be considered:

(1) The nature and responsibility of the position which the convicted individual would hold;
(2) The nature and seriousness of the offense;
(3) The circumstances under which the offense occurred;
(4) The date of the offense;
(5) The age of the individual when the offense was committed;
(6) Whether the offense was an isolated or repeated incident;
(7) Any social conditions which may have contributed to the offense; and
(8) Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of persons who have had the individual under their supervision.

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

2. This act shall take effect on the 90th day next following the date of enactment.

STATEMENT

This bill requires every home improvement contractor and home elevation contractor subject to the requirements of the "Contractors' Registration Act," P.L.2004, c.16 (C.56:8-136 et seq.), to undergo a criminal history record background check. The background check will ensure that no criminal history record information exists on file in the Federal Bureau of Investigation, or in the State Bureau of Identification in the Division of State Police, indicating that the home improvement contractor or home elevation contractor has been convicted of any crime that may disqualify a contractor for registration. The criminal history record background check requirement provided for in this bill replaces the requirement in current law that home improvement and home elevation contractors disclose convictions for certain disqualifying crimes.