

ASSEMBLY, No. 2258

STATE OF NEW JERSEY

INTRODUCED JULY 18, 1996

By Assemblymen MORAN, IMPREVEDUTO, Assemblywoman
Quigley, Assemblymen Romano, Connors, Holzapfel and Wolfe

1 AN ACT requiring the registration of home improvement contractors
2 and 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:*

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

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10 2. As used in this act:

11 "Director" means the Director of the Division of Consumer Affairs
12 in the Department of Law and Public Safety.

13 "Home improvement" means the remodeling, altering, painting,
14 repairing, or modernizing of residential or non-commercial property
15 and the making of additions thereto, and includes, but is not limited to,
16 the construction, installation, replacement, improvement, or repair of
17 driveways, sidewalks, swimming pools, terraces, patios, landscaping,
18 fences, porches, windows, doors, cabinets, kitchens, bathrooms,
19 garages, basements and basement waterproofing, fire protection
20 devices, security protection devices, central heaters or purifiers, solar
21 heating or water systems, aluminum siding, wall-to-wall carpeting or
22 attached or inlaid floor coverings, and other changes, repairs, or
23 improvements made in or on, attached to, or forming a part of the
24 residential or noncommercial property. Home improvement shall also
25 include insulation installation, and the conversion of existing
26 commercial structures into residential or non-commercial property, but
27 shall not include the construction of a new residence.

28 "Home improvement contract" means an oral or written agreement
29 for the performance of a home improvement costing \$100 or more
30 between a home improvement contractor and an owner of residential
31 or noncommercial property, or a home improvement contractor and a
32 tenant or lessee of residential or noncommercial property, if the tenant
33 or lessee is to be obligated for the payment of home improvements
34 made in, to, or upon the property, and includes all agreements under
35 which the home improvement contractor is to perform labor or render
36 services for home improvements, or furnish materials in connection

1 therewith.

2 "Home improvement contractor" means a person engaged in the
3 business of making or selling home improvements and includes a
4 corporation, partnership, association and any other form of business
5 organization or entity, and its officers, representatives, agents and
6 employees.

7 "Residential or non-commercial property" means a structure used,
8 in whole or in substantial part, except for rental properties of more
9 than four units, as a home or place of residence by any natural person,
10 whether or not a single or multi-unit structure, and that part of the lot
11 or site on which it is situated and which is devoted to the residential
12 use of the structure, and includes all appurtenant structures.

13

14 3. a. No person shall sell, attempt to sell, or perform home
15 improvements unless registered with the Division of Consumer Affairs
16 in accordance with the provisions of this act.

17 b. Every home improvement contractor shall annually register with
18 the director. Application for registration shall be on a form provided
19 by the division and shall be accompanied by a reasonable fee, set by
20 the director in an amount sufficient to defray the division's expenses
21 incurred in administering and enforcing this act.

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23 4. The provisions of this act shall not apply to:

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

27 b. Any person performing a home improvement upon a residential
28 property he owns, or that is owned by a member of his family, a
29 charity, or other non-profit organization;

30 c. Any person regulated by the State as an architect, professional
31 engineer, landscape architect, land surveyor, electrical contractor,
32 master plumber, or any other person in any other related profession
33 requiring registration, certification, or licensure by the State, who is
34 acting within the scope of practice of his profession; or

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

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

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

45 (1) Any crime of the first degree;

46 (2) Any crime which is a second or third degree crime and is a

1 violation of chapter 20 or 21 of Title 2C of the New Jersey Statutes;
2 or

3 (3) Any other crime which is a violation of N.J.S.2C:5-1, 2C:5-2,
4 2C:11-2 through 2C:11-4, 2C:12-1, 2C:12-3, 2C:13-1, 2C:14-2,
5 2C:15-1, subsection a. or b. of 2C:17-1, subsection a. or b. of 2C:17-
6 2, 2C:18-2, 2C:20-4, 2C:20-5, 2C:20-7, 2C:20-9, 2C:21-2 through
7 2C:21-4, 2C:21-6, 2C:21-7, 2C:21-12, 2C:21-14, 2C:21-15, or 2C:21-
8 19, chapter 27 or 28 of Title 2C of the New Jersey Statutes, N.J.S.
9 2C:30-2, 2C:30-3, 2C:35-5, 2C:35-10, 2C:37-1 through 2C:37-4.

10 b. Each disclosure statement may be reviewed and used by the
11 director as grounds for denying, suspending or revoking registration,
12 except that in cases in which the provisions of P.L.1968, c.282
13 (2A:168A-1 et seq.) apply, the director shall comply with the
14 requirements of that act.

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

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

24 e. If any of the information required to be included in the
25 disclosure statement changes, or if additional information should be
26 added after the filing of the statement, the applicant shall provide that
27 information to the director, in writing, within 30 calendar days of the
28 change or addition.

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30 6. A home improvement contractor who enters into a home
31 improvement contract for \$20,000 or more shall maintain a bond
32 issued by a surety authorized to transact business in this State or
33 maintain an irrevocable letter of credit by a bank or maintain with the
34 director securities, moneys or other security acceptable to the director
35 to fulfill the requirements of this section. The principal sum of the
36 bond, letter of credit, or securities, moneys or other security shall not
37 be less than \$10,000, which amount the director may adjust by
38 regulation. The bond, letter of credit, or securities, moneys or other
39 security shall be filed or deposited with the director and shall be
40 executed to the State of New Jersey for the use of any person who,
41 after entering into a home improvement contract, is damaged or
42 suffers any loss for any violation of this act. Any person claiming
43 against the bond, letter of credit, or securities, moneys or other
44 security may maintain an action at law against the home improvement
45 contractor and the surety, bank, or director, as the case may be. The
46 aggregate liability of the surety, bank, or the director to all persons for

1 all breaches of the conditions of the bond, letter of credit or the
2 securities, moneys or other security held by the director shall not
3 exceed the amount of the bond, letter of credit, or the securities,
4 moneys or other security held by the director.

5 In the case of a bond, the home improvement contractor shall file
6 a copy of the bond with the director and a certificate by the surety that
7 the surety will notify the director at least 10 days in advance of the
8 date of any cancellation or material change in the bond.

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10 7. a. The director may refuse to issue or renew, and may revoke,
11 any registration for failure to comply with, or violation of, the
12 provisions of this act or for any other good cause shown within the
13 meaning and purpose of this act. A refusal or revocation shall not be
14 made except upon reasonable notice to, and opportunity to be heard
15 by, the applicant or registrant.

16 b. The director, in lieu of revoking a registration, may suspend the
17 registration for a reasonable period of time, or assess a penalty in lieu
18 of suspension, or both, and may issue a new registration,
19 notwithstanding the revocation of a prior registration, if the applicant
20 is found to have become entitled to the new registration.

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22 8. All registrants shall prominently display their registration
23 numbers within their places of business, in all advertisements, business
24 documents and correspondence, and on all vehicles used to conduct
25 business.

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27 9. a. The provisions of this act shall apply to any person engaging
28 in any of the activities regulated by this act in this State, including
29 persons whose residence or principal place of business is located
30 outside of this State.

31 b. A person shall not bring or maintain an action in any court of
32 this State for the collection of a fee, charge or commission for the
33 performance of any of the activities regulated by this act without
34 alleging and proving valid registration at the time the alleged cause of
35 action arose.

36
37 10. It shall be a violation of this act to:

38 a. Make, or cause to be made, publish or cause to be published,
39 any false, misleading, or deceptive advertisement or representation
40 concerning the services or products that the registrant provides;

41 b. Engage in repeated acts of negligence, malpractice, or
42 incompetence;

43 c. Engage in gross negligence, gross malpractice, or gross
44 incompetence; or

45 d. Engage in any misconduct as may be determined by regulation
46 by the director.

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

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4 12. a. This act shall not deny to any municipality the power to
5 register and regulate home improvement contractors.

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

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10 13. The director shall establish and undertake a public information
11 campaign to educate and inform home improvement contractors and
12 the consumers of this State of the provisions of this act.

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14 14. Nothing in this act shall limit the application of P.L.1960, c.39
15 (C.56:8-1 et seq.), or any regulations promulgated thereunder, in
16 regard to the registration or regulation of home improvement
17 contractors.

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19 15. The director, pursuant to the provisions of the "Administrative
20 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall
21 promulgate rules and regulations to effectuate the purposes of this act.

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23 16. This act shall take effect 180 days following enactment.

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26 STATEMENT

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28 This bill provides for the registration of home improvement
29 contractors with the Director of the Division of Consumer Affairs in
30 the Department of Law and Public Safety.

31 Under the bill's provisions, every home improvement contractor
32 shall annually register with the director to do business in this State.
33 The bill also makes violators of this bill subject to the provisions of the
34 consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.). It is a violation
35 of the provisions of the bill to: make, or cause to be made, publish or
36 cause to be published, any false, misleading, or deceptive
37 advertisement or representation concerning the services or products
38 that a home improvement contractor provides; engage in repeated acts
39 of negligence, malpractice, or incompetence; engage in gross
40 negligence, gross malpractice, or gross incompetence; or engage in any
41 misconduct as may be determined by regulation by the director. In
42 addition, the bill authorizes the Director of the Division of Consumer
43 Affairs to refuse to issue or renew, or to suspend or revoke the
44 registration of any person who violates the bill's provisions.

45 The bill further requires those registered as home improvement
46 contractors who enter into home improvement contracts of \$20,000

1 or more, to maintain a bond, letter of credit, or securities of not less
2 than \$10,000.

3 In addition, the bill requires the director to conduct a program of
4 public education to educate and inform home improvement contractors
5 and consumers of the provisions of this bill.

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10 "Home Improvement Contractors' Registration Act."