

SENATE, No. 2130

STATE OF NEW JERSEY

INTRODUCED JUNE 5, 1997

By Senators CIESLA, CONNORS and Cafiero

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:

6

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  
37 therewith.

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

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

12  
13 3. a. No person shall sell, attempt to sell, or perform home  
14 improvements unless registered with the Division of Consumer Affairs  
15 in accordance with the provisions of this act.

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

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

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

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

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

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

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

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

44 (1) Any crime of the first degree;

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

1 or

2 (3) Any other crime which is a violation of N.J.S.2C:5-1, 2C:5-2,  
3 2C:11-2 through 2C:11-4, 2C:12-1, 2C:12-3, 2C:13-1, 2C:14-2,  
4 2C:15-1, subsection a. or b. of 2C:17-1, subsection a. or b. of 2C:17-  
5 2, 2C:18-2, 2C:20-4, 2C:20-5, 2C:20-7, 2C:20-9, 2C:21-2 through  
6 2C:21-4, 2C:21-6, 2C:21-7, 2C:21-12, 2C:21-14, 2C:21-15, or 2C:21-  
7 19, chapter 27 or 28 of Title 2C of the New Jersey Statutes,  
8 N.J.S.2C:30-2, 2C:30-3, 2C:35-5, 2C:35-10, 2C:37-1 through 2C:37-  
9 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 shall maintain a bond issued by a surety  
32 authorized to transact business in this State, or maintain an irrevocable  
33 letter of credit by a bank, or maintain with the director securities,  
34 moneys or other security acceptable to the director to fulfill the  
35 requirements of this section. The principal sum of the bond, letter of  
36 credit, or securities, moneys or other security shall be established by  
37 the director, which amount the director may adjust by regulation. The  
38 bond, letter of credit, or securities, moneys or other security shall be  
39 filed or deposited with the director and shall be executed to the State  
40 of New Jersey for the use of any person who, after entering into a  
41 home improvement contract, is damaged or suffers any loss for any  
42 violation of this act. Any person claiming against the bond, letter of  
43 credit, or securities, moneys or other security may maintain an action  
44 at law against the home improvement contractor and the surety, bank,  
45 or director, as the case may be. The aggregate liability of the surety,  
46 bank, or the director to all persons for all breaches of the conditions

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

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

8

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

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

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

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

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

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

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

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

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

44 d. Engage in any misconduct as may be determined by regulation  
45 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 before doing business in this  
33 State. The bill also makes violators subject to the provisions of the  
34 consumer fraud law, P.L.1960, c.39 (C.56:8-1 et seq.). It is a  
35 violation of the provisions of the bill to: make, or cause to be made,  
36 publish or 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 its provisions.

45 The bill further requires those registered as home improvement  
46 contractors who enter into home improvement contracts to maintain

1 a bond, letter of credit, or securities in an amount established by the  
2 Director of the Division of Consumer Affairs.

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 its provisions.

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10 "Home Improvement Contractors' Registration Act."