

[Second Reprint]

ASSEMBLY, No. 2052

STATE OF NEW JERSEY
211th LEGISLATURE

INTRODUCED FEBRUARY 5, 2004

Sponsored by:

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District 20 (Union)

Assemblyman ANTHONY IMPREVEDUTO

District 32 (Bergen and Hudson)

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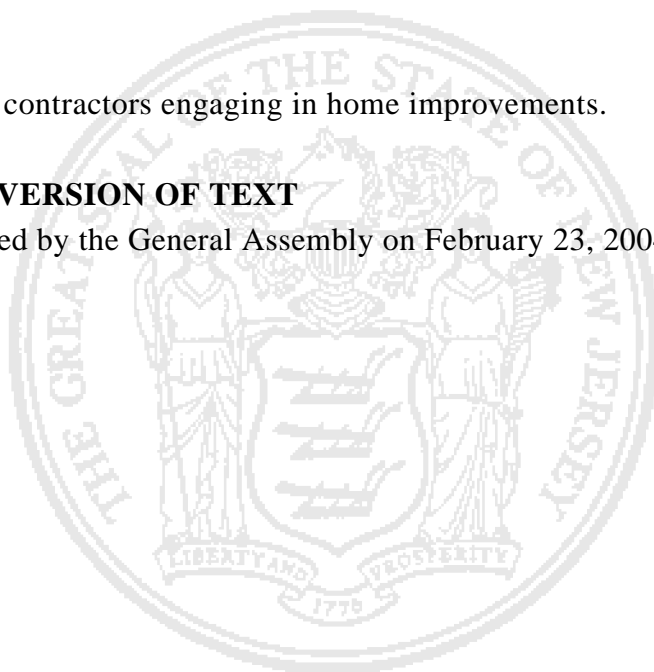
**Assemblyman Eagler, Assemblywoman Previte, Senators Bryant, Sarlo,
Rice and Madden**

SYNOPSIS

Regulates contractors engaging in home improvements.

CURRENT VERSION OF TEXT

As amended by the General Assembly on February 23, 2004.



(Sponsorship Updated As Of: 3/30/2004)

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

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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 "Contractors'
8 Registration Act."

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10 2. As used in this act:

11 "Contractor" means a person engaged in the business of making or
12 selling home improvements and includes a corporation, partnership,
13 association and any other form of business organization or entity, and
14 its officers, representatives, agents and employees.

15 "Director" means the Director of the Division of Consumer Affairs
16 in the Department of Law and Public Safety.

17 "Division" means the Division of Consumer Affairs in the
18 Department of Law and Public Safety.

19 "Home improvement" means the remodeling, altering, renovating,
20 repairing, restoring, modernizing, moving, demolishing, or otherwise
21 improving or modifying of the whole or any part of any residential or
22 non-commercial property. Home improvement shall also include
23 insulation installation, and the conversion of existing commercial
24 structures into residential or non-commercial property.

25 "Home improvement contract" means ²[a] an oral or² written
26 agreement for the performance of a home improvement ²[costing
27 \$2,500 or more]² between a contractor and an owner, tenant or lessee,
28 of a residential or noncommercial property, and includes all
29 agreements under which the contractor is to perform labor or render
30 services for home improvements, or furnish materials in connection
31 therewith.

32 "Residential or non-commercial property" means any single or
33 multi-unit structure used in whole or in part as a place of residence,
34 and all structures appurtenant thereto, and any portion of the lot or
35 site on which the structure is situated which is devoted to the
36 residential use of the structure.

37

38 3. a. No person shall offer to perform, or engage, or attempt to
39 engage in the business of making or selling home improvements unless
40 registered with the Division of Consumer Affairs in accordance with
41 the provisions of this act.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ARP committee amendments adopted February 9, 2004.

² Assembly floor amendments adopted February 23, 2004.

1 b. Every contractor shall annually register with the director.
2 Application for registration shall be on a form provided by the division
3 and shall be accompanied by a reasonable fee, set by the director in an
4 amount sufficient to defray the division's expenses incurred in
5 administering and enforcing this act.

6 c. Every contractor required to register under this act shall file an
7 amended registration within 20 days after any change in the
8 information required to be included thereon. No fee shall be required
9 for the filing of an amendment.

10

11 4. Except for persons exempted pursuant to section 5 of this act,
12 any person who advertises in print or puts out any sign or card or
13 other device after the effective date of this act which would indicate
14 to the public that he is a contractor in New Jersey, or who causes his
15 name or business name to be included in a classified advertisement or
16 directory in New Jersey after the effective date of this act under a
17 classification for home improvements covered by this act, is subject to
18 the provisions of this act. This section shall not be construed to apply
19 to simple ²residential² alphabetical listings in standard telephone
20 directories.

21

22 5. 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
25 (C.46:3B-1 et seq.);

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

34 d. Any person who is employed by a community association or
35 cooperative corporation;

36 e. Any public utility as defined under R.S.48:2-13;

37 f. Any person licensed under the provisions of section 16 of
38 P.L.1960, c.41 (C.17:16C-77); and

39 g. Any ¹[person employed by a]¹ home improvement ¹[store]
40 retailer¹ with a net worth of more than \$50,000,000 ¹, or employee of
41 that retailer¹.

42

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

45 a. Every applicant shall file a disclosure statement with the director
46 stating whether the applicant has been convicted of any crime, which

1 for the purposes of this act shall mean a violation of any of the
2 following provisions of the "New Jersey Code of Criminal Justice,"
3 Title 2C of the New Jersey Statutes, or the equivalent under the laws
4 of any other jurisdiction:

5 (1) Any crime of the first degree;

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

9 (3) Any other crime which is a violation of N.J.S.2C:5-1, 2C:5-2,
10 2C:11-2 through 2C:11-4, 2C:12-1, 2C:12-3, 2C:13-1, 2C:14-2,
11 2C:15-1, subsection a. or b. of 2C:17-1, subsection a. or b. of 2C:17-
12 2, 2C:18-2, 2C:20-4, 2C:20-5, 2C:20-7, 2C:20-9, 2C:21-2 through
13 2C:21-4, 2C:21-6, 2C:21-7, 2C:21-12, 2C:21-14, 2C:21-15, or 2C:21-
14 19, chapter 27 or 28 of Title 2C of the New Jersey Statutes,
15 N.J.S.2C:30-2, 2C:30-3, 2C:35-5, 2C:35-10, 2C:37-1 through
16 2C:37-4.

17 b. The director may refuse to issue or may suspend or revoke any
18 registration issued by him upon proof that the applicant or holder of
19 the registration:

20 (1) Has obtained a registration through fraud, deception or
21 misrepresentation;

22 (2) Has engaged in the use or employment of dishonesty, fraud,
23 deception, misrepresentation, false promise or false pretense;

24 (3) Has engaged in gross negligence, gross malpractice or gross
25 incompetence;

26 (4) Has engaged in repeated acts of negligence, malpractice or
27 incompetence;

28 (5) Has engaged in professional or occupational misconduct as may
29 be determined by the director;

30 (6) Has been convicted of any crime involving moral turpitude or
31 any crime relating adversely to the activity regulated by this act. For
32 the purpose of this subsection a plea of guilty, non vult, nolo
33 contendere or any other such disposition of alleged criminal activity
34 shall be deemed a conviction;

35 (7) Has had his authority to engage in the activity regulated by the
36 director revoked or suspended by any other state, agency or authority
37 for reasons consistent with this section;

38 (8) Has violated or failed to comply with the provisions of any act
39 or regulation administered by the director;

40 (9) Is incapable, for medical or any other good cause, of
41 discharging the functions of a licensee in a manner consistent with the
42 public's health, safety and welfare.

43 c. An applicant whose registration is denied, suspended, or
44 revoked pursuant to this section shall, upon a written request
45 transmitted to the director within 30 calendar days of that action, be
46 afforded an opportunity for a hearing in a manner provided for

1 contested cases pursuant to the "Administrative Procedure Act,"
2 P.L.1968, c.410 (C.52:14B-1 et seq.).

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

6 e. If any of the information required to be included in the
7 disclosure statement changes, or if additional information should be
8 added after the filing of the statement, the applicant shall provide that
9 information to the director, in writing, within 30 calendar days of the
10 change or addition.

11 f. Notwithstanding the provisions of paragraph (6) of subsection
12 b. of this section, no individual shall be disqualified from registration
13 or shall have registration revoked on the basis of any conviction
14 disclosed if the individual has affirmatively demonstrated to the
15 director clear and convincing evidence of the individual's
16 rehabilitation. In determining whether an individual has affirmatively
17 demonstrated rehabilitation, the following factors shall be considered:

18 (1) The nature and responsibility of the position which the
19 convicted individual would hold;

20 (2) The nature and seriousness of the offense;

21 (3) The circumstances under which the offense occurred;

22 (4) The date of the offense;

23 (5) The age of the individual when the offense was committed;

24 (6) Whether the offense was an isolated or repeated incident;

25 (7) Any social conditions which may have contributed to the
26 offense; and

27 (8) Any evidence of rehabilitation, including good conduct in
28 prison or in the community, counseling or psychiatric treatment
29 received, acquisition of additional academic or vocational schooling,
30 successful participation in correctional work-release programs, or the
31 recommendation of persons who have had the individual under their
32 supervision.

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34 7. a. Every registered contractor who is engaged in home
35 improvements shall secure, maintain and file with the director proof of
36 a certificate of commercial general liability insurance in a minimum
37 amount of \$500,000 per occurrence.

38 b. Every proof of a commercial general liability insurance policy
39 required to be filed with the director shall provide that cancellation or
40 nonrenewal of the policy shall not be effective unless and until at least
41 10 days' notice of intention to cancel or nonrenew has been received
42 in writing by the director.

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44 8. a. The director may refuse to issue or renew, and may revoke,
45 any registration for failure to comply with, or violation of, the
46 provisions of this act or for any other good cause shown within the

1 meaning and purpose of this act. A refusal or revocation shall not be
2 made except upon reasonable notice to, and opportunity to be heard
3 by, the applicant or registrant.

4 b. The director, in lieu of revoking a registration, may suspend the
5 registration for a reasonable period of time, or assess a penalty in lieu
6 of suspension, or both, and may issue a new registration,
7 notwithstanding the revocation of a prior registration, if the applicant
8 is found to have become entitled to the new registration.

9
10 9. a. All registrants shall prominently display their registration
11 numbers within their places of business, in all ²[printed]²
12 advertisements distributed within this State, on business documents,
13 contracts and correspondence with consumers of home improvement
14 services in this State, and on all commercial vehicles registered in this
15 State and leased or owned by registrants and used by registrants for
16 the purpose of providing home improvements, except for vehicles
17 leased or rented to customers of registrants by a registrant or any
18 agent or representative thereof.

19 b. Any invoice, contract or correspondence given by a registrant
20 to a consumer shall prominently contain the toll-free telephone number
21 provided pursuant to section 14 of this act.

22
23 10. The provisions of this act shall apply to any person engaging
24 in any of the activities regulated by this act in this State, including
25 persons whose residence or principal place of business is located
26 outside of this State.

27
28 11. a. It is an unlawful practice and a violation of P.L.1960, c.39
29 (C.56:8-1 et seq.) to violate any provision of this act.

30 b. In addition to any other penalty provided by law, a person who
31 knowingly violates any of the provisions of this act is guilty of a crime
32 of the fourth degree.

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34 12. a. This act shall supersede any municipal ordinance or
35 regulation that provides for the licensing or registration of contractors
36 or for the protection of homeowners by bonds or warranties required
37 to be provided by contractors, exclusive of those required by water,
38 sewer, utility, or land use ordinances or regulations.

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

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43 13. This act shall not deny to any municipality the power to
44 inspect a contractor's work or equipment, the work of a contractor
45 who performs improvements to commercial property, or the power to
46 regulate the standards and manners in which the contractor's work

1 shall be done.

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3 14. a. The director shall establish and undertake a public
4 information campaign to educate and inform contractors and the
5 consumers of this State of the provisions of this act. The public
6 information campaign shall include, but not be limited to, the
7 preparation, printing and distribution of booklets, pamphlets or other
8 written pertinent information.

9 b. The director shall provide a toll-free telephone number for
10 consumers making inquiries regarding contractors.

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

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16 16. a. Every home improvement contract ²for a purchase price in
17 excess of \$500², and all changes in the terms and conditions of the
18 contract, shall be in writing. The contract shall be signed by all
19 parties thereto, and shall clearly and accurately set forth in legible form
20 and in understandable language all terms and conditions of the
21 contract, including but not limited to:

22 (1) The legal name, business address, and registration number of
23 the contractor:

24 (2) A copy of the certificate of commercial general liability
25 insurance required of a contractor pursuant to section 7 of this act and
26 the telephone number of the insurance company issuing the certificate;
27 and

28 (3) The total price or other consideration to be paid by the owner,
29 including the finance charges.

30 b. A home improvement contract may be cancelled by a consumer
31 for any reason at any time before midnight of the third business day
32 after the consumer receives a copy of it. In order to cancel a contract
33 the consumer shall notify the contractor of the cancellation in writing,
34 by registered or certified mail, return receipt requested, or by personal
35 delivery, to the address specified in the contract. All moneys paid
36 pursuant to the cancelled contract shall be fully refunded within
37 30 days of receipt of the notice of cancellation. If the consumer has
38 executed any credit or loan agreement through the contractor to pay
39 all or part of the contract, the agreement or note shall be cancelled
40 without penalty to the consumer and written notice of that cancellation
41 shall be mailed to the consumer within 30 days of receipt of the notice
42 of cancellation. The contract shall contain a conspicuous notice
43 printed in at least 10-point bold-faced type as follows:

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"NOTICE TO CONSUMER

YOU MAY CANCEL THIS CONTRACT AT ANY TIME BEFORE MIDNIGHT OF THE THIRD BUSINESS DAY AFTER RECEIVING A COPY OF THIS CONTRACT. IF YOU WISH TO CANCEL THIS CONTRACT, YOU MUST EITHER:

1. SEND A SIGNED AND DATED WRITTEN NOTICE OF CANCELLATION BY REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED; OR
2. PERSONALLY DELIVER A SIGNED AND DATED WRITTEN NOTICE OF CANCELLATION TO:

(Name of Contractor)

(Address of Contractor)

(Phone Number of Contractor)

If you cancel this contract within the three-day period, you are entitled to a full refund of your money. Refunds must be made within 30 days of the contractor's receipt of the cancellation notice."

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

18. This act shall take effect on the 180th day following enactment.