

CHAPTER 16

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

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

C.56:8-136 Short title.

1. This act shall be known and may be cited as the “Contractors’ Registration Act.”

C.56:8-137 Definitions relative to home improvement contractors.

2. As used in this act:

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

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

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

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

“Home improvement contract” means an oral or written agreement for the performance of a home improvement between a contractor and an owner, tenant or lessee, of a residential or noncommercial property, and includes all agreements under which the contractor is to perform labor or render services for home improvements, or furnish materials in connection therewith.

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

C.56:8-138 Registration for contractors; application, fee.

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

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

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

C.56:8-139 Act applicable to contractors who publicly advertise.

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

C.56:8-140 Inapplicability of act.

5. The provisions of this act shall not apply to:

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

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

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

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

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

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

g. Any home improvement retailer with a net worth of more than \$50,000,000, or employee of that retailer.

C.56:8-141 Additional requirements; refusal to issue or suspend or revoke registration; grounds.

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; or

(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.

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

(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 in a manner consistent with the public's health, safety and welfare.

c. An applicant 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 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.

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 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.

C.56:8-142 Proof of commercial general liability insurance; requirements.

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

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

C.56:8-143 Refusal to issue, renew, revocation, suspension of registration; procedures.

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

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

C.56:8-144 Display of registration number; requirements.

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

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

C.56:8-145 Applicability of act of out-of-State contractors.

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

C.56:8-146 Violations, fourth degree crime.

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

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

C.56:8-147 Supersedure of municipal ordinance, regulation.

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

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

C.56:8-148 Municipal powers preserved.

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

C.56:8-149 Public information campaign, toll free number.

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

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

C.56:8-150 Applicability of C.56:8-1 et seq.

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

C.56:8-151 Contracts, certain, required to be in writing; contents.

16. a. Every home improvement contract for a purchase price in excess of \$500 and all changes in the terms and conditions of the contract, shall be in writing. The contract shall be signed by all parties thereto, and shall clearly and accurately set forth in legible form and in understandable language all terms and conditions of the contract, including but not limited to:

(1) The legal name, business address, and registration number of the contractor;

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

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

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

"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."

C.56:8-152 Rules, regulations.

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.

Approved May 13, 2004.